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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOSE GUADALUPE PEREZ-FARIAS,)	NO. CV-05-3061-MWL
et al.,)	
)	ORDER REGARDING PLAINTIFFS'
Plaintiffs,)	MOTION FOR CONTEMPT AND FOR
)	SANCTIONS
vs.)	
)	
GLOBAL HORIZONS, INC., et)	
al.,)	
)	
Defendants.)	
_____)	

Before the Court is Plaintiffs' April 11, 2007 motion to hold Defendant Global Horizons, Inc. ("Defendant") in contempt for its failure to comply with the Court's orders and for sanctions. (Ct. Rec. 377). Defendants filed a response in opposition on April 16, 2007. (Ct. Rec. 398).

BACKGROUND

The following is a time line and synopsis of each filing relevant to the instant motion:

1. On **December 18, 2006**, the Court Granted in part and Denied in part Plaintiffs' motion to compel. (**Ct. Rec. 199**). The Court held that documents related to Global's prior violations of AWPAs were properly discoverable. However, the Court found that prior allegations of discrimination, with no relation to any plaintiff in the case, was not relevant and no production was ordered as to this request.
2. On **December 28, 2006**, the Court Denied Defendants' motion for a protective order. (**Ct. Rec. 205**). In that order, the Court found that inquiry into Global's recruitment process of H-2A workers from Thailand and information related to Bruce Schwartz was relevant and that the requested discovery of this information was permissible.

- 1 3. On **February 13, 2007**, the Court issued two orders. The
2 Court first Denied Plaintiffs' motion for
3 reconsideration with regard to this Court's December 18,
4 2006 order. (**Ct. Rec. 240**). The Court held that
5 documents related to Global's prior violations of AWPAs
6 are discoverable. However, **allegations** of
7 discrimination, with no relation to any plaintiff in the
8 case, continued to be deemed irrelevant. The Court
9 indicated in a footnote that allegations are very
10 different from violations and that this distinction was
11 noted by the Court in making its determination on
12 December 18, 2006.
- 13
- 14 4. On February 13, 2007, the Court also issued an order
15 Denying Defendants' motion for a protective order. (**Ct.**
16 **Rec. 241**). Defendants sought to prohibit Plaintiffs
17 from inquiring into any potential nationwide H-2A
18 violations committed by Defendants. The Court held that
19 inquiry into H-2A **violations** committed by Defendants
20 could potentially lead to relevant information and was
21 thus permissible. In a footnote, the Court indicated
22 that this finding was distinguishable from the Court's
23 December 18, 2006 order which held that allegations of
24 past misconduct, not violations, were not properly
25 discoverable.
- 26
- 27 5. On **March 12, 2007**, the Court entered an order Granting
28 Plaintiffs' motion to compel discovery and for
 sanctions. (**Ct. Rec. 274**). Defendants failed to
 respond to Plaintiffs' motion. The Court ordered
 Defendants to produce all documents requested in
 Plaintiffs' Third Set of Requests for Production #11 and
 #12 and Plaintiffs' Fourth Set of Requests for
 Production #6 as well as the following information:
- a. All memorandum or other documents prepared by James
 S. Holt regarding the agricultural labor shortage
 in Washington State in 2004.
 - b. All written training materials produced for and/or
 provided to Global Horizons, Inc. and/or its
 employees related to Global's use of the H-2A
 program by James S. Holt.
 - c. All written manuals produced for and/or provided to
 Global for use by its employees by James S. Holt
 related to Global's H-2A business operations
 including, but not limited to, recruitment,
 application and interview process, hiring,
 progressive discipline process and all other
 aspects of the business operations.
 - d. All written memorandum provided to Global by James
 S. Holt related to its business practices
 including, but not limited to, the Migrant and
 Seasonal Agricultural Worker Protection Act, the

1 Social Security Number Verification process, and/or
2 the recruitment or employment of agricultural
workers.

3 e. All correspondence including, but not limited to,
4 letters, e-mails, and facsimiles, that relates to
5 the documents referenced above and to Global's
business practices in Washington State in 2003 and
2004 between James S. Holt and Global.

6 f. All contracts for services between James S. Holt
7 and Global from 2002 through 2004.

8 6. Defendants did not produce that documentation within the
9 time frame ordered by the Court (within five calendar
days for the date of the Court's order).

10 7. On **March 20, 2007**, the Court entered another order
11 Granting Plaintiffs' motion to compel discovery and for
sanctions. (**Ct. Rec. 298**). Defendants again failed to
12 respond to Plaintiffs' motion. The Court ordered as
follows:

13 a. If such information exists and was not previously
14 provided to Plaintiffs, Global should supplement
15 their responses to include all agency charges,
16 actions, notices of violation or any civil suits
17 related to violations of the AWPA and H-2A
regulations, regardless of whether any charge,
18 action, notice or violation of civil suit has been
19 appealed or not reached final judgment. The Court
noted that this finding does not change or
20 dissipate any prior order of the Court with respect
21 to previous discovery issues.

22 b. Global was compelled to produce the ACT database in
its native format.

23 c. Global was directed to produce all email between
24 Global and Bruce Swartz, email between Global and
25 Amnon Gonnene, and all email relevant to the
litigation.

26 d. Global was directed to produce phone records from
27 November 1, 2003 through July 30, 2004, a package
28 related to recruiting identified by Mr. Orian, H-2A
employee agreements, and the recruitment criteria
used by Global.

e. Global was directed to produce the power of
attorney with Amnon Gonnene, all communication with
Washington State regarding Global's Farm Labor
Contractor's License in 2003 and 2004, all
communication with the Social Security
Administration regarding class members, all notes
prepared by Maria Ramirez in 2003 and 2004, records

1 of when Global translated Clearance Orders in 2004,
2 and an Excel spreadsheet summarizing time card
3 information for U.S. Resident workers and H-2A
4 workers in Washington State in 2004.

- 5
- 6 8. Defendants, again, did not produce that documentation
7 within the time frame ordered by the Court (within five
8 calendar days for the date of the Court's order).
- 9
- 10 9. On **March 27, 2007**, the Court Denied Plaintiffs' motion
11 to hold Defendants in contempt for their failure to
12 comply with the Court's March 12, 2007 order. (**Ct. Rec.**
13 **329**). Although the Court denied the motion, the Court
14 indicated that Global's obligation to comply with the
15 Court's March 12, 2007 order persisted. Defendants were
16 given until March 30, 2007 to comply with that order.
- 17
- 18 10. On **March 28, 2007**, Defendants filed a Motion for Relief
19 from Default Orders pursuant to Fed. R. Civ. P. 60(b).
20 (**Ct. Rec. 340**).
- 21
- 22 11. On **March 30, 2007**, the Court Denied Defendants' motion
23 for relief from this Court's orders. (**Ct. Rec. 351**).
24 Defendants were ordered to fully comply with all orders
25 for production previously ordered by this Court.
- 26
- 27 12. On **April 2, 2007**, Defendants filed a motion for
28 reconsideration of this Court's order denying their
motion for relief under Rule 60(b). (**Ct. Rec. 354**).
- 13
- 14 13. On **April 5, 2007**, the Court Denied Defendants' motion
15 for reconsideration. (**Ct. Rec. 363**). The Court ordered
16 Global to promptly comply with the Court's orders with
17 respect to the discovery ordered.
- 18
- 19 14. On **April 11, 2007**, Plaintiffs filed the instant motion
20 to hold Global in contempt for its failure to comply
21 with the Court's orders to produce discovery. (**Ct. Rec.**
22 **377**).
- 23
- 24 15. On **April 13, 2007**, Plaintiffs submitted a declaration of
25 counsel indicating that Global had not produced other
26 documents within the time agreed to by counsel. (**Ct.**
27 **Rec. 383**).
- 28
16. On **April 16, 2007**, Defendants filed a response in
opposition to the instant motion. (**Ct. Rec. 398**).
17. The instant matter came of for hearing on **April 17,**
2007. Richard W. Kuhling and Mirta Laura Contreras
appeared on behalf of the Plaintiffs and I. Randolph S.
Shiner, Gregg R. Smith and Ryan M. Edgley appeared for
the Defendants.

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1 **DISCUSSION**

2 As noted in the time line above, Defendants have continued to
3 refuse to provide discovery despite several Court orders directing
4 them to produce documents. Defendants have been given ample time
5 to comply with the Court's orders regarding the discovery
6 requests. There is no basis for Defendants' continued refusal to
7 provide the production of documents as ordered by the Court.

8 **A. Dr. Holt Material/Correspondence**

9 Defendants have been previously directed to produce this
10 information¹ and shall do so, now, without exception. Mr. Shiner
11 indicated at the time of the hearing that one letter had been
12 completely redacted from Defendants' production. That letter,
13 unredacted, shall be sent to the Court, the Court shall review the
14 letter in camera, and the Court will thereafter make a
15 determination as to whether the document should be produced to
16 Plaintiffs as previously ordered.

17 **B. H-2A Employee Agreements**

18 These documents were ordered by the Court to be produced by
19 Defendants. Any privacy concerns Defendants may have are
20 invalidated by the fact that the documents were directed to be
21 produced pursuant to Court order. Defendants shall produce this
22 information as previously ordered by the Court.

23 **C. Violations of AWPA and H-2A Information**

24 The Court's December 18, 2005 order directed Global to
25 provide responses to Plaintiffs' requests regarding prior
26 violations of AWPA. (Ct. Rec. 199). The Court's February 13,

27
28 ¹The information includes Dr. Holt's training material, all unredacted
correspondence with Dr. Holt, recruitment criteria and the contract for
services with Dr. Holt.

1 2007 order denied Defendants' motion for a protective order and
2 indicated that discovery of Defendants' H-2A violations, as
3 related to Plaintiffs' claims, would not be prohibited. (Ct. Rec.
4 241). On March 20, 2007, the Court entered a separate order
5 granting Plaintiffs' motion to compel discovery and directing
6 Global to supplement their responses to include all agency
7 charges, actions, notices of violation or any civil suits related
8 to violations of the AWPAs and H-2A regulations, regardless of
9 whether any charge, action, notice or violation of civil suit has
10 been appealed or not reached final judgment. (Ct. Rec. 298).

11 The Court finds that Defendant shall, as previously ordered,
12 supplement their responses and include all agency charges,
13 actions, notices of violation or any civil suits related to
14 violations of the AWPAs and H-2A regulations, regardless of whether
15 any charge, action, notice or violation of civil suit has been
16 appealed or not reached final judgment.

17 **D. Information Related to Taft Farms**

18 Defendants assert that this information is completely
19 irrelevant to this litigation. The time for arguing relevance of
20 documents has passed. Moreover, whether information is relevant
21 or not is a decision for the Court to make. Defendants have been
22 ordered to produce this information and shall do so in compliance
23 with this Court's orders.

24 **E. All Email and All Communications with Washington State**

25 Defendants indicate that these documents are so voluminous
26 that it will take an enormous amount of man-hours to produce.
27 Defendants assert that it would result in shutting down the normal
28 course of Global's business to accumulate the documentation.

1 As noted by this Court in a previous order, the Court
2 disagrees with Defendants' claim that the production of email is
3 overly burdensome. Discovery of e-mail communications is now
4 commonplace in litigation and there are means to accumulate the
5 documentation that would not result in shutting down Global's
6 business. There are, additionally, procedures Defendants could
7 utilize to simplify their obligation to produce their
8 communications with Washington State. As noted at the hearing,
9 for example, Global could simply make the documents available for
10 Plaintiffs' review at Global's place of business. In any event,
11 as noted by the Court at the hearing on the instant motion,
12 Defendants are required to comply with this Court's previous
13 orders to compel. Defendants shall produce all of the
14 documentation, as previously ordered, or promptly have an
15 established agreement with counsel for Plaintiffs with respect to
16 these discovery issues.

17 **F. Power of Attorney**

18 Defendants' response to the discovery of the Power of
19 Attorney with Amnon Gonnene indicated that "Global will produce
20 this piece of 'crucial' information." (Ct. Rec. 298, p. 14).
21 Defendants' characterization of this discovery as "crucial" has
22 not gone unnoticed by this Court. This backhand comment is not
23 only not appreciated but is also not professional. Defendants
24 shall locate this document and produce it to Plaintiffs as
25 previously ordered by the Court.

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1 **G. All Other Discovery Previously Ordered Produced**

2 Defendants are ordered to fully comply with the terms of the
3 Court's prior orders on discovery without exception. There is no
4 legitimate basis for Defendants' continued refusal to comply.

5 **SANCTIONS**

6 The Court finds that monetary sanctions against Defendant
7 Global Horizons, Inc., are warranted. The Court orders sanctions
8 in the amount of \$1,000.00 against Defendant Global Horizons,
9 Inc., for its failure to comply with this Court's orders and for
10 Plaintiffs' fees in connection with bringing the instant motion.

11 Furthermore, the Court orders Defendant Global Horizons,
12 Inc., to pay Plaintiffs the outstanding balance of \$1,000.00 for
13 sanctions previously imposed by the Court.

14 Defendants are ordered to pay the above sanctions and to
15 produce documents as ordered by the Court by the close of business
16 Monday, April 23rd, 2007.

17 If Defendants fail to comply with the instant order,
18 Defendants shall be sanctioned \$500.00 a day, each calender day,
19 until Defendants have fully complied with this Court's orders.

20 **CONCLUSION**

21 Based on the foregoing, **IT IS ORDERED** as follows:

22 1. Plaintiffs' motion to hold Defendant Global Horizons,
23 Inc. in contempt for its failure to comply with the Court's orders
24 and for sanctions (Ct. Rec. 377) is **Granted in part and DENIED in**
25 **part.**

26 2. Defendant Global Horizons, Inc. shall produce all
27 documents, as outlined in the body of this order, by the close of
28 business on **Monday, April 23rd, 2007.**

1 3. Defendant Global Horizons, Inc. shall pay to Plaintiffs
 2 sanctions in the amount of **\$1,000.00** for the cost of bringing the
 3 instant motion and shall also pay to Plaintiffs the **\$1,000.00** for
 4 the sanctions that were previously imposed by the Court.

5 4. Defendant Global Horizons, Inc., is forewarned that its
 6 failure to comply with this order shall result in sanctions, in
 7 the amount of \$500.00 a day, each calendar day, until it has fully
 8 complied with this Court's orders.

9 5. Based on the agreement of counsel at the time of the
 10 hearing on the instant motion, Defendant Global Horizons, Inc., is
 11 granted an additional three-week period of time in order to submit
 12 the report of its expert witness.

13 **IT IS SO ORDERED.** The District Court Executive is directed
 14 to file this Order and provide copies to counsel for Plaintiffs
 15 and Defendants.

16 **DATED** this 19th day of April, 2007.

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

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