

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CYNTHIA ARTIS, *et al.*,
Plaintiffs,
v.
ALAN GREENSPAN,
Chairman of the Board of
Governors of the Federal
Reserve System,
Defendant.

Civil Action No. 01-400 (EGS)

ORDER

On September 26, 2002, this Court permitted the parties to engage in discovery "on the extremely narrow issue of whether plaintiffs have satisfied their obligation to engage in counseling at the administrative level and have thus exhausted their administrative remedies." Order at 17. This narrow jurisdictional discovery was allowed in order to afford plaintiffs the opportunity to "support their contention that the Board counseling sessions are being used as a means of preventing plaintiffs from instituting a civil action in a federal district court." See Order at 15-16 (citing principle that "[a] plaintiff may be excused from exhausting administrative remedies if she presents 'objective and undisputed evidence of administrative bias that would render pursuit of an administrative remedy futile'"). The Order provided that this discovery "should

concentrate on any EEO counseling that was conducted with individual plaintiffs in 1997, and the two group sessions held in January and February 1997. Relevant inquiries may focus on the content of the actual sessions, any follow-up communication between the parties, and Board policy or practices that would support a conclusion that the administrative counseling process was a futile exercise." Order at 17.

Despite these specific instructions, the parties have not been able to come to agreement on scope of discovery authorized by September 2002 Order. Accordingly, in order to aid the parties and the Court in the expeditious resolution of plaintiffs' Motion to Compel Compliance With Court Ordered Discovery, it is hereby

ORDERED that the parties shall file a single consolidated side-by-side presentation adhering to the following format: (1) plaintiffs shall prepare a 2-column table and fill in the left side with a concise list of remaining inquiries that they contend are necessary, accompanied by a short description of why each item satisfies the extremely narrow scope contemplated by the September 2002 Order and could support a conclusion that the administrative counseling process was futile. Plaintiffs shall then serve defendant's counsel, by **no later than JUNE 30, 2005**, with a non-PDF version of this statement via email or computer floppy disk. (2) Defendant's counsel shall then respond to this

statement point-by-point by filling in the right side of the table with reasons why each item is either outside the scope of the September 2002 Order or not relevant to the issue of futility. A blank space will indicate that defendant agrees with plaintiffs' proposal. Defendant is directed to file this consolidated statement with the Court by **no later than JULY 30, 2005**. These deadlines will not be extended.

IT IS SO ORDERED.

**SIGNED: EMMET G. SULLIVAN
UNITED STATES DISTRICT JUDGE
April 28, 2005**