

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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' January 31, 2007 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. 223). Plaintiffs specifically request that Green Acre and Valley Fruit produce answers and documents in response to Plaintiffs' Second Set of Interrogatories and Requests for Production. (Ct. Rec. 224). Plaintiffs further request that this Court order Defendants Green Acre and Valley Fruit to produce documents identified at the January 17, 2007 deposition of John Verbrugge as well as documents identified at the January 25, 2007 Fed. R. Civ. P. 30(b)(6) deposition of Zirkle Fruit. (Ct. Rec. 224). Plaintiffs

1 additionally ask the Court to order Defendants Green Acre and
2 Valley Fruit, and/or the attorney advising Defendants, Ryan M.
3 Edgley, to pay Plaintiffs' reasonable expenses, including
4 attorney's fees, caused by the failure to timely respond to
5 Plaintiffs' discovery requests. (Ct. Rec. 224).

6 Pursuant to the Federal Rules of Civil Procedure, if a party
7 fails to answer an interrogatory submitted under Fed. R. Civ. P.
8 33 or fails to respond to a request for production under Fed. R.
9 Civ. P. 34, the party requesting the discovery may apply for an
10 order compelling discovery and for appropriate sanctions. Fed. R.
11 Civ. P. 37(a). Pursuant to Fed. R. Civ. P. 37(a)(4), the party
12 who prevails on a motion to compel is entitled to his or her
13 expenses, including reasonable attorney's fees, incurred in making
14 the motion, unless the losing party was substantially justified in
15 making or opposing the motion or other circumstances that make
16 such an award unjust. The burden is on the losing party to
17 affirmatively demonstrate that its position was substantially
18 justified. Fed. R. Civ. P. 37(a)(4), Advisory Comm. Notes (1970).

19 Defendants Green Acre and Valley Fruit have failed to timely
20 provide any response to Plaintiffs' discovery requests, failed to
21 contact Plaintiffs' counsel to request additional time to respond
22 and failed to provide a response to the instant motion to compel.
23 To date, Defendants Green Acre and Valley Fruit have not provided
24 a response to Plaintiffs' motion to compel or otherwise advised
25 the Court as to their position regarding this motion.

26 Based on the foregoing, the Court finds that Green Acre and
27 Valley Fruit must be required to provide full responses to
28 Plaintiffs' Second Set of Interrogatories and Requests for

1 Production. Since no response in opposition was received from
2 Defendants, Plaintiffs are additionally entitled to the requested
3 discovery of the documents identified at the January 17, 2007
4 deposition of John Verbrugge, as well as documents identified at
5 the January 25, 2007 Fed. R. Civ. P. 30(b)(6) deposition of Zirkle
6 Fruit.

7 Furthermore, by Defendants' failure to respond to the instant
8 motion, Defendants and their attorney have also failed to show
9 good faith and/or substantial justification for their failure to
10 respond to Plaintiffs' discovery requests. The evidence before
11 the Court is such that Defendants have failed to timely and
12 adequately respond to Plaintiffs' discovery requests. Defendants
13 have failed to provide Plaintiffs with essential information in
14 violation of Fed. R. Civ. P. 26, 33 and 34. Defendants have
15 failed to file anything in response to Plaintiffs' motion
16 regarding these discovery requests. Accordingly, the Court
17 further grants monetary sanctions against Defendants.

18 On June 6th, 2006, in the underlying lawsuit, the Court
19 previous ordered sanctions in the amount of \$400.00 against
20 Defendants Green Acre and Valley Fruit and/or their attorneys for
21 their failure to timely respond to Plaintiffs' discovery requests.
22 (Ct. Rec. 114). On that occasion, Defendants also failed to file
23 a response to Plaintiffs' motion to compel or otherwise contact
24 the Court with respect to Plaintiffs' motion. This is the second
25 occasion that Court intervention has become necessary for the same
26 type of issue, and the Court finds that monetary sanctions are
27 again warranted.

28 ///

1 Accordingly, **IT IS ORDERED** as follows:

2 1. Plaintiffs' motion to compel discovery responses from
3 Defendants Green Acre and Valley Fruit and for sanctions (**Ct. Rec.**
4 **223**) is **GRANTED**.

5 2. Defendants Green Acre and Valley Fruit shall provide
6 full responses to Plaintiffs' Second Set of Interrogatories and
7 Requests for Production within **five (5) calendar days** from the
8 date of this order.

9 3. Defendants Green Acre and Valley Fruit shall also
10 produce the documents identified at the January 17, 2007
11 deposition of John Verbrugge, as well as the documents identified
12 at the January 25, 2007 Fed. R. Civ. P. 30(b)(6) deposition of
13 Zirkle Fruit within **five (5) calendar days** from the date of this
14 order.

15 4. Defendants Green Acre and Valley Fruit and/or their
16 attorney, Ryan M. Edgley, shall pay to Plaintiffs the amount of
17 **\$500.00** for their expenses incurred in bringing this motion.

18 **IT IS SO ORDERED.** The District Court Executive is directed
19 to file this Order and provide copies to counsel for Plaintiffs
20 and Defendants.

21 **DATED** this 8th day of February, 2007.

22
23
24 s/Michael W. Leavitt
MICHAEL W. LEAVITT
25 UNITED STATES MAGISTRATE JUDGE
26
27
28