

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED FARM WORKERS)
)
 and)
)
 FARMWORKER JUSTICE,)
) C.A. No. 07-2241 (HHK)
 Plaintiffs,)
)
 v.)
)
 DEPARTMENT OF LABOR,)
)
 Defendant.)
 _____)

**PLAINTIFFS' REPLY IN SUPPORT OF THEIR
CROSS-MOTION FOR SUMMARY JUDGMENT**

Plaintiffs United Farm Workers (UFW) and Farmworker Justice (FJ) moved for summary judgment that Defendant U.S. Department of Labor (DOL) violated the Freedom of Information Act (FOIA), 5 U.S.C. § 552 *et seq.*, by failing to waive fees associated with plaintiffs' seven FOIA requests and, with respect to the sixth request, failing to justify its redactions to the documents produced and failing to produce any documents related to Louisiana. Doc. 13. Rather than oppose plaintiffs' motion for summary judgment, DOL gave up. Specifically, DOL concedes that UFW and FJ "have met the requirements for establishing a waiver of fees under 5 U.S.C. § 552(a)(4)(A)(iii) and 29 C.F.R. § 70.41 in all seven of [their] waiver requests associated with this litigation." Doc. 15-3 (Carlson letter of April 25, 2008). DOL further concedes that the documents it produced in response to the sixth request "contained improper redactions" and that it failed to produce requested records related to H-2A applications in Louisiana. *Id.* DOL now seeks a stay to allow it time to produce the documents responsive to the third, fourth, and fifth requests, and to reprocess its

response to plaintiffs' sixth request. DOL proposes that, once it has done so, the parties file a joint status report identifying any issues that remain in dispute. Doc. 15 at 6.

UFW and FJ agree that this case should be stayed until DOL has produced the records responsive to the third through sixth requests, but seeks entry of the attached proposed order setting deadlines for DOL to comply with its obligations. UFW and FJ note that on February 20, 2008, this Court ordered DOL to produce the materials responsive to plaintiffs' sixth request (Doc. 9), but DOL failed to do so. Similarly, pursuant to this Court's scheduling order of February 29, 2008, DOL had until March 10, 2008, to move for summary judgment on the basis that the redacted information was subject to withholding under one of FOIA's exemptions, but DOL failed to do so.

The attached proposed order sets forth deadlines in accordance with DOL's own representations. DOL "intends to produce the documents related to" the sixth request "by May 9, 2008," and "expects" the documents responsive to the third, fourth, and fifth requests "to be released to [UFW] on or before May 23, 2008." Doc. 15-3 (Carlson letter of April 25, 2008). It is particularly important that DOL adhere to the time limits it has identified because of the time-sensitive nature of the requested documents. The third, fourth, and fifth requests were made on June 20, 2007, and the sixth and seventh requests were made on October 23, 2007. As UFW and FJ explained in their requests, prompt access to the requested records is necessary to address the public's need for information about guestworker programs in connection with the ongoing debate about immigration and agricultural labor reform legislation, and to protect the jobs, wages, and working conditions of U.S. workers while preventing exploitation of vulnerable guestworkers.

Respectfully submitted,

/s/ Michael T. Kirkpatrick

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