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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Oakland Division

YUEN HAN LI, *et al.*,

No. C 10-02488 LB

Plaintiffs,

FINAL PRETRIAL ORDER

v.

UNITED STATES,

Defendant.

_____ /
The Court held a final pretrial conference in this matter on September 13, 2011 and issues this final pretrial order pursuant to Federal Rule of Civil Procedure 16(e).

I. JURISDICTION AND VENUE

This Court has jurisdiction pursuant to 7 U.S.C. §2023(a)(13). Jurisdiction is also found under 7 C.F.R. §279.7(a). Jurisdiction is not disputed.

Venue is proper in this Court pursuant to 7 U.S.C. §2023(a)(13), and 7 C.F.R. §279.7(a), because both petitioners are residents of San Francisco County, which is located in the Northern District of California. Moreover, Golden Well has been, and is engaged in business in the Northern District of California. Venue is not disputed.

II. TRIAL DATE & LENGTH OF TRIAL

A. The bench trial shall begin on September 26, 2011, in Courtroom 4, 3rd Floor, U.S. District Court, 1301 Clay Street, Oakland, California. The trial will last two days. The trial will be held on

1 Monday from 8:30 a.m. to 5:00 p.m. and on Tuesday from 8:30 a.m. to 3:00 p.m. Each day will
2 include two fifteen-minute breaks and a lunch break of forty-five minutes. The trial may extend to a
3 third day if the interests of justice so requires. Counsel should arrive at 8:15 a.m. to address any
4 issues (such as objections) before the trial day begins.

5 B. Plaintiffs will have six hours to present the direct examination of its witnesses and to cross-
6 examine the opposing party's witnesses, including all objections raised during the trial day.
7 Defendants will have four hours to present the direct examination of its witnesses and to cross-
8 examine the opposing party's witnesses, including all objections raised during the trial day. In
9 addition, each party may make an opening statement of up to fifteen minutes and a closing statement
10 of up to thirty minutes.

11 **III. PROCEDURE FOR EXHIBITS DURING TRIAL**

12 Please refer to the court's September 17, 2010 Pretrial Order (ECF No. 22) for the proper
13 procedures regarding the presentation of exhibits during trial.

14 **IV. PROCEDURE FOR WITNESSES DURING TRIAL**

15 Please refer to the court's September 17, 2010 Pretrial Order (ECF No. 22) for the proper
16 procedures regarding the presentation of witness testimony during trial.

17 **V. CLAIMS & DEFENSES REMAINING**

18 A. Plaintiffs' Claim

19 Plaintiffs Yuen Han Li and Judy Yuen Li seek a judicial review of the United States
20 Department of Agriculture's Food and Nutrition Service's administrative action to permanently
21 disqualify Golden Well from the Supplemental Nutrition Assistance Program (SNAP) pursuant to 7
22 C.F.R. §278.6(e)(1)(i) due to a find of trafficking. Plaintiffs claim that the findings of trafficking
23 and the decision to permanently disqualify Golden Well from the program are invalid. Therefore,
24 the Court is asked to decide two questions: (a) whether the violation occurred, and (b) whether the
25 penalty imposed on plaintiff is valid. *See Plaid Pantry Stores, Inc. v. United States*, 799 F.2d 560,
26 563 (9th Cir. 1986). However, the parties stipulate that, if the Court determines that Plaintiffs have
27 not carried their burden of proving by a preponderance of the evidence that trafficking did not occur,
28

1 then Defendant’s permanent disqualification of Plaintiffs from SNAP was not arbitrary and
2 capricious. Stipulation, ECF No. 48-4 at 1-2.

3 B. Defendant’s Defenses

4 Defendant contends that Plaintiffs cannot prove “by a preponderance of the evidence that the
5 violations [trafficking] did not occur.” *Kim v. United States*, 121 F.3d 1269, 1271 (9th Cir. 1997).
6 The agency’s decision is presumed to be valid, and Defendant contends that Plaintiffs cannot prove
7 that it should be set aside. *See Redmond v. United States*, 507 F.2d 1007, 1011 (5th Cir. 1975).
8 Defendant further contends that Plaintiffs cannot prove that “each of the violations charged” was not
9 trafficking. *Kahin v. United States*, 101 F. Supp. 2d 1299, 1303 (S.D. Cal. 2000).

10 Defendant also contends that the penalty of permanent disqualification was not arbitrary and
11 capricious based on its assertion that Plaintiffs cannot prove by a preponderance of the evidence that
12 trafficking did not occur.

13 **VI. MOTIONS IN LIMINE**

14 A. The Court made the following rulings on Defendant’s Motions in Limine. For the reasons
15 stated on the record and good cause appearing, **IT IS HEREBY ORDERED** that:

16 Defendant’s Motion *in Limine* 1 filed at ECF No. 51 is granted; and

17 Defendant’s Motion *in Limine* 2 filed at ECF No. 53 is denied.

18 **VII. WITNESSES**

19 A. Plaintiffs

20 For their case-in-chief, Plaintiffs may call the witnesses listed on Plaintiffs’ witness list
21 separately filed at ECF No. 48-8 at 2-5.

22 B. Defendant

23 For its case-in-chief, Defendant may call the witnesses listed on Defendant’s witness list
24 separately filed at ECF No. 48-9 at 1-4.

25 **VIII. EXHIBITS**

26 Plaintiffs object to Defendant’s proposed Exhibit Nos. 100-04, 107-08, 110-12, 114-17, 122-23,
27 128, 131-34. ECF No. 57. Defendant objects to Plaintiffs’ proposed Exhibit Nos. 1-6, 25, 34, and
28 36-41. ECF No. 64. At the pretrial conference, the Court ruled on these objections, denying

1 Plaintiffs' objections to all of the exhibits and denying Defendant's objections to proposed Exhibit
2 Nos. 2-5, 25, and 34. The Court denied Defendant's deadline-based objections to Plaintiffs'
3 proposed Exhibit Nos. 36-41 but permitted Defendant to reserve its other objections.

4 The parties shall meet and confer to discuss any final stipulations or objections, Plaintiffs'
5 revised summary charts, and any other outstanding issues by Wednesday, September 21, 2011. The
6 parties shall inform the Court of any development no later than noon on Thursday, September 22,
7 2011.

8 **IX. AUTHENTICITY**

9 A. The parties agreed that copies of exhibits may be used as originals and, subject to the
10 court's rulings on issues such as relevance, generally stipulated to the authenticity of the business
11 records and investigative reports. The parties shall file a stipulation to this effect by noon on
12 Thursday, September 22, 2011.

13 B. The parties agreed that the Administrative Record (A.R. 1 to A.R. 401), and all documents
14 therein, are authentic for purposes of Federal Rule of Evidence 901. Stipulation, ECF No. 48-2 at 1-
15 2. This does not preclude any party from objecting to admissibility on any other ground under the
16 Federal Rules of Evidence. *Id.*

17 **X. STIPULATIONS OF FACTS**

18 The stipulations of facts filed at ECF No. 48 at 3-6 are approved and binding on all parties. The
19 parties also stipulate that Plaintiffs will not use the rice crisis of 2008 as an explanation for any
20 purported rice purchases or rice purchasing patterns at Golden Well but this does not preclude
21 Defendant from introducing or seeking to introduce into evidence for any purpose any evidence
22 relating to any previous statement Plaintiffs made about, or any previous use Plaintiffs made of, the
23 rice crisis as an explanation for any purported rice purchases or rice purchasing patterns at Golden
24 Well. Stipulation, ECF No. 48-3 at 1-2.

25 **IT IS SO ORDERED.**

26 Dated: September 13, 2011



LAUREL BEELER
United States Magistrate Judge

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