

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
CENTRAL DIVISION  
LEXINGTON

CIVIL ACTION NO. 07-267-JBC

JANE DOE,

PLAINTIFF,

V.

MEMORANDUM OPINION AND ORDER

UNITED STATES DEPARTMENT  
OF JUSTICE, ET AL.,

DEFENDANTS.

\* \* \* \* \*

This matter is before the court on the motion of the plaintiff, referred to herein as "Jane Doe," for a jury trial. R. 78. The court will construe the motion as a motion for an advisory jury, and, for the reasons below, will grant the motion.

Doe alleges that the defendants violated the Privacy Act in disclosing her application for disability benefits during a trial in a separate action, *Beaven, et al. v. Depart. of Justice, et al.*, Civil Action No. 5:03-cv-84-JBC. The Privacy Act does not provide a jury trial right, nor have the defendants consented to one. *See* 5 U.S.C.A. § 552(a)(g)(4) (LEXIS 2010). Fed. R. Civ. P. 39 provides that a court may, on motion or on its own, try any issue with an advisory jury. Fed. R. Civ. P. 39(c)(1). The decision to empanel an advisory jury is within the trial court's discretion. *See In re Crash Disaster at Metro. Airport*, 619 F. Supp. 13, 17 (E.D. Mich. 1984).

The court will exercise its discretion and will impanel an advisory jury. Although this court will not be bound by the advisory jury's advice, it may prove

helpful in evaluating witnesses' credibility and in resolving questions of fact.

Pursuant to Rule 52(a), however, the court, as the trier of fact, will make its own independent findings of fact and conclusions of law. Fed. R. Civ. P. 52(a)(1) (“[i]n an action tried on the facts . . . with an advisory jury, the court must find the facts specially and state its conclusions of law separately”).

Accordingly,

**IT IS ORDERED** that Doe’s motion for a jury trial, R. 78, is **GRANTED**, and the court will therefore impanel an advisory jury at trial.

Signed on August 31, 2010



*Jennifer B. Coffman*

JENNIFER B. COFFMAN, CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY