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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 LINDA BARBER, et al.,

12 Defendants.

CASE NO. C13-5539 BHS

ORDER GRANTING  
PLAINTIFF'S MOTION TO  
COMPEL, DENYING  
DEFENDANTS' MOTION FOR  
PROTECTIVE ORDER, AND  
AWARDING DISCOVERY FEES

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14 This matter comes before the Court on Plaintiff United States of America's  
15 ("Government") motion to compel (Dkt. 42) and Defendants Bert Barber, Linda Barber,  
16 and Lori Thompson's ("Defendants") motion for protective order (Dkt. 43). The Court  
17 has considered the pleadings filed in support of and in opposition to the motions and the  
18 remainder of the file and hereby grants the motion to compel, denies the motion for  
19 protective order, and grants discovery fees for the reasons stated herein.

20 **I. PROCEDURAL HISTORY**

21 On July 1, 2013, the Government, on behalf of Diana Alton, filed a complaint  
22 against Defendants seeking enforcement of the Fair Housing Act, 42 U.S.C. §§ 3601, *et*

1 *seq.* (“FHA”). Dkt. 1. Relevant to the instant motions, the Government alleges that  
2 Defendants have engaged in a pattern or practice of resistance to the full enjoyment of  
3 rights granted by the FHA. *Id.* ¶ 49(a).

4 On April 25, 2014, the Government filed a motion to compel (Dkt. 42) and  
5 Defendants filed a motion for protective order (Dkt. 43). On May 7, 2014, the  
6 Government responded. Dkt. 45. On May 9, 2014, Defendants replied. Dkt. 46. On  
7 May 12, 2014, Defendants responded to the Government’s motion. Dkt. 48. On May 15,  
8 2014, the Government replied. Dkt. 51.

## 9 **II. DISCUSSION**

10 “Unless otherwise limited by court order, . . . [p]arties may obtain discovery  
11 regarding any nonprivileged matter that is relevant to any party’s claim or defense . . . .”  
12 Fed. R. Civ. P. 26(b)(1). “Relevant information need not be admissible at the trial if the  
13 discovery appears reasonably calculated to lead to the discovery of admissible evidence.”  
14 *Id.*

15 In this case, the parties dispute the extent of discovery that the Government may  
16 have with regard to the allegation of Defendants engaging in a pattern or practice of  
17 illegal conduct. Tenant files created from May 2008 through December 2012 are  
18 discoverable information because they could reasonably lead to the discovery of  
19 admissible evidence on the issue of a pattern or practice of behavior. Therefore, the  
20 Court grants the Government’s motion to compel.

21 In the event that the Court granted the motion to compel, Defendants request that  
22 the Court order the Government to pay for the costs of producing these tenant files. Dkt.

1 46 at 5. The Government contends that it has offered to pay the costs of production. Dkt.  
2 45 at 12. Because the parties agree on this issue, the Court awards fees in any amount up  
3 to \$3500 for the production of the client files and Defendants' review. Any request for  
4 fees and/or costs exceeding this amount, shall be requested by motion and supported by  
5 detailed records.

### 6 **III. ORDER**

7 Therefore, it is hereby **ORDERED** that the Government's motion to compel (Dkt.  
8 42) is **GRANTED**, Defendants' motion for protective order (Dkt. 43) is **DENIED**, and  
9 Defendants are awarded up to \$3500 for the costs and fees associated with producing the  
10 requested materials.

11 Dated this 17th day of June, 2014.

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14 BENJAMIN H. SETTLE  
United States District Judge