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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IRANIA SANCHEZ and EMILIO VEGA, on  
behalf of themselves and all others  
situated; and MAKE THE ROAD BY  
WALKING, INC.,

00 Civ. 1674 (AGS) (DFE)

Plaintiffs,

- against -

MEMORANDUM AND ORDER

JASON A. TURNER, as Administrator  
of the Human Resources Administration  
of the City of New York,

Defendant.

-----X  
DOUGLAS FEATON, United States Magistrate Judge.

I am responding to the July 19 Joint letter from Mr. Gallagher and Ms. Birnbaum. They each request oral argument, but I deny that request because I find that they have stated their positions very thoroughly, in 21 single-spaced pages plus Exhibits A to N. I will refer to certain of those exhibits as "Exh. \_\_\_."

This lawsuit seeks access for unaccompanied welfare advocates to the waiting rooms of the Income Support and Job Centers (the "Centers") operated by the City's Human Resources Administration ("HRA"). Depositions ended on April 6, I gave the parties until June 1 to complete follow-up written discovery. On April 18 the defendant served a second set of interrogatories and 30 document requests. (Exh. A.) By that point, the defendant had deposed five employees and one member of the corporate plaintiff Make the Road by Walking, Inc. ("MRBW") and the plaintiffs had produced more than 5,000 pages of documents. In response to the April 18 requests, the plaintiffs produced almost 2,000 additional pages (with many redactions) and a 36-page privilege log (Exh. J).

The dispute is as follows. The defendant seeks unredacted production of **two sets of documents**:

(1) The schedules, performance evaluations, and weekly support. evaluation and **task** sheets for the **three** employees of the **MRBW** project involved in this lawsuit; and

(2) The letters that **MRBW** has sent to local politicians on **issues that concern the HRA**.

The plaintiffs have stated that they **"left** unredacted all **portions** of documents that discuss trainings either conducted by **[MRBW]** or attended by **[MRBW] staff** or **Comite** members, where those trainings concerned public assistance benefits or organizing. Additionally, plaintiffe have not redacted any portions of the documents that indicate that particular **[MRBW] etaff** or **Comite members** visited **Centers** to provide information, assistance or representation concerning **public** assistance benefits," (I note that the **MRBW staff** members have visited the **Centers** on many occasions, both with and without an accompanying welfare claimant; **see Exh. B** at **Tr. 70-72.**) The plaintiffe argue **that** the redacted **portions** have **no** connection to **the Centers**, and are "irrelevant to the instant litigation and protected by the First and Fourteenth Amendments' rights **of association, of speech, and to petition** government.'

Because of the December 2000 revisions to the **Federal Rules** of Civil Procedure, Rule 26(b) (1) now limits attorney-managed discovery to **"any** matter, not privileged, that is relevant to **the** claim or defense **of any party,**" Rule **26(b) (1)** adds, **"For good** cause, the **court** may order discovery **of any matter relevant to the subject** matter involved in the **action."** I find that the defendant has not **shown** good cause for the disputed items. **Moreover,** I find that the defendant's position would subject the plaintiffs to unnecessary "annoyance, embarrassment, oppression, **[and] undue burden [and] expense."** within **the meaning of Rule 26(c).**

The defendant's efforte to show **relevance** are **set** forth below, and they are very unconvincing. The defendant **writes:**

Both the task sheets and the schedules are

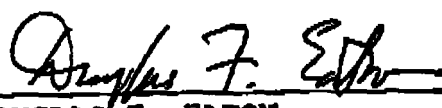
relevant to core **issues** raised in this **case**. The activities shown on the task **sheets** and **schedules** are likely to reflect similar . . . activities that **MRBW** would undertake in Centers **if** given access. **This** is relevant to an analysis of the nature and **scope** of plaintiffs' **activities** and **whether** they would be **disruptive** if conducted in Centers. The **deadline** information **on the task sheets** may be particularly revealing since it may show that a given **MRBW** staff member is **responsible** for accomplishing certain **tasks** each week, perhaps **even** a quota of **tasks**, which **would be** undertaken inside **Centers**. . . Moreover, . . . [they] are relevant in **terms** of showing which of these **three** people, if **any**, **has** received appropriate training . . . . [Joint Ltr. at p. 7.1]

The performance evaluations are relevant . . . , **[because]** they are Likely to **show** the types of **activities** engaged in by **MRBW's** staff, the potential **intrusiveness** of these activities on **Center operations**, and the individual approaches used by each of the three staff **members** at issue. [Joint Ltr. at pp. 9-10.]

[The] letters . . . **to various** politicians ,.. concern **MRBW's** perception of **HRA's** obligations and operations - - the performance of which [the] plaintiffs **will undoubtedly** challenge **inside** Centers should they be given access. [Joint Ltr. at pp. 10-11.]

**These asertiona** about relevance are very strained. As I **noted** above, the **MRBW** staff members have **visited** the Centers on many **occasions**; those visits are documented in the **unredacted** portions of the task **sheets** and schedules, which are sufficient for the defendant's purposes. The **requests** for internal performance evaluations, **and for the content** of letters to the public Advocate and other politicians, are needlessly intrusive. **Moreover**, plaintiff **MRBW** raises significant **concerns** that the requested **discovery** would chill this advocacy **organization's** rights of association, **free** speech, and to petition government. **In sum**, the requested discovery's alleged relevance **is** disproportionate to its annoyance, **embarrassment**, **oppression**, and undue **burden** and expense.

Accordingly, I **hold** that the **discovery** In this lawsuit is finally completed. On May 31, I set **deadlines** for letters to Judge Schwartz describing any proposed motions for **summary judgment - - June 7 for plaintiffs** and **June 20 for defendant**, For the **purposes** of magistrate judge statistics, I hereby close **Judge Schwartz's 9/28/00 Order** of Reference.

  
\_\_\_\_\_  
DOUGLAS F. EATON  
United States Magistrate Judge

**Dated:** New York, **New York**  
July 23, 2001

**Copies of** this Memorandum and Order were sent on this date by **mail to:**

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