

U.S. Department of Labor

Office of the Solicitor
61 Forsyth Street SW
Atlanta, Georgia 30303



December 5, 2008

VIA FACSIMILE and U.S. MAIL

Honorable Dennis J. Phillips
Review Commission Judge
Occupational Safety and Health
Review Commission
1120 20th Street, NW
Washington, DC 20036-3457

Re: Secretary of Labor v. Imperial Sugar Company; Imperial-Savannah, L.P.; and their Successors
OSHRC Docket No. 08-1104; Region IV
Inspection No. 310988712
SOL Case No. 08-60093

RECEIVED
12-05-08
10:13 AM
OFFICE OF THE SOLICITOR
U.S. DEPARTMENT OF LABOR

Dear Judge Phillips:

Enclosed please find the original and one copy of *Complainant's Motion for Extension of Time to Serve Answers and Objections to Respondent's First Interrogatories and First Request for Production of Documents* and proposed *Order* in the above-captioned case. Please return a conformed copy of Complainant's motion in the enclosed envelope.

You will note from the Certificate of Service that a copy has been forwarded to counsel for the Respondents.

Respectfully,

Stanley E. Keen
Regional Solicitor

By: *Karen E. Mock*
Karen E. Mock
Senior Trial Attorney

Enclosures

cc: Charles H. Morgan, Esq.

UNITED STATES OF AMERICA

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

ELAINE L. CHAO, Secretary of Labor,)	
United States Department of Labor)	
)	
Complainant,)	
)	OSHRC Docket No. 08-1104
v.)	
)	
IMPERIAL SUGAR COMPANY; IMPERIAL-)	
SAVANNAH, L.P.; and their Successors,)	OSHA Inspection No. 310988712
)	
Respondents.)	

**COMPLAINANT’S MOTION FOR EXTENSION OF TIME TO SERVE ANSWERS
AND OBJECTIONS TO RESPONDENT’S FIRST INTERROGATORIES AND FIRST
REQUEST FOR PRODUCTION OF DOCUMENTS**

Comes now the Complainant, the Secretary of Labor, United States Department of Labor, and moves the Court to extend the time by which Complainant may answer and/or object to Respondent Imperial-Savannah, L.P.’s written discovery requests in this case an additional thirty (30) days, up to and including January 9, 2009, for the following reasons:

1. Respondent Imperial-Savannah, L.P. (“ISLP”) served its First Interrogatories and First Request for Production of Documents to Complainant (“Interrogatories and Requests”) on November 3, 2008. Therefore, pursuant to the Occupational Safety and Health Review Commission’s Rules of Procedure, Complainant’s answers and/or objections to the Interrogatories and Requests are due on or before December 8, 2008. True and correct copies of Respondent’s Interrogatories and Requests are attached hereto as Exhibit A and Exhibit B, respectively.

2. Due to inadvertence, Complainant’s undersigned counsel did not become aware that Respondent ISLP had propounded discovery until November 13, 2008.

3. Due to the complexity and nature of this case, based principally upon the number and classification of the Citation items, Complainant's counsel requests a thirty (30) day extension of time to complete the following in order to more accurately and completely respond to the Interrogatories and Requests:

- a. Properly review and redact privileged portions of the investigation files;
- b. Complete creation of electronic database(s) and/or file(s) to facilitate production of responsive materials to the Requests;
- c. Properly bates-number all materials and records responsive to the Requests; and
- d. Create a Privilege Log reflecting materials withheld from production.

4. Following receipt of the Interrogatories and Requests, Complainant initiated each of the foregoing tasks; however, due largely to the comparative size of the case files vis-à-vis the scope of Respondent's written discovery, an additional thirty (30) days will provide Complainant needed time to complete these specific actions in order to properly respond to the Interrogatories and Requests.

5. Respondents ISLP and Imperial Sugar Company will not be harmed or prejudiced by a thirty (30) day extension of time to serve answers and objections to the Interrogatories and Requests in the present case.

6. Undersigned Complainant's counsel, Karen E. Mock, conferred via electronic mail with Respondent's counsel, Charles H. Morgan and Patrick J. Veters on December 3-4, 2008 regarding this motion and the relief requested herein. Mr. Veters sent reply emails on those dates indicating that Respondents were opposed to granting an extension of thirty (30) days.

WHEREFORE, for the foregoing reasons Complainant hereby respectfully moves the Commission to grant Complainant a thirty (30) day extension, up to and including January 9, 2008, to serve answers and objections to the Interrogatories and Requests.

Dated this 5th day of December 2008.

ADDRESS:

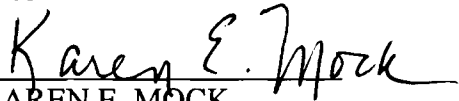
Office of the Solicitor
U. S. Department of Labor
61 Forsyth Street, S.W.
Room 7T10
Atlanta, GA 30303

Telephone: 404/302-5435
Facsimile: 404/302-5438
Mock.karen@dol.gov
Helms.christopher@dol.gov

GREGORY F. JACOB
Solicitor of Labor

STANLEY E. KEEN
Regional Solicitor

SHARON D. CALHOUN
Counsel

By: 
KAREN E. MOCK
Senior Trial Attorney

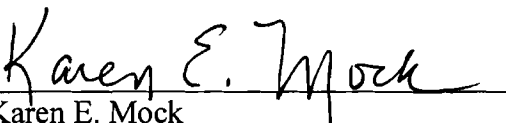
CHRISTOPHER D. HELMS
Trial Attorney

Attorneys for the Secretary of Labor
United States Department of Labor

SOL Case No. 08-60093

CERTIFICATE OF CONFERENCE

I hereby certify that I have conferred in good faith with Respondent's counsel Charles H. Morgan and Patrick J. Veters regarding *Complainant's Motion for Extension of Time to Serve Answers and Objections to Respondent's First Interrogatories and First Request for Production of Documents*. Mr. Veters has communicated that Respondents are opposed to the relief requested herein.


Karen E. Mock
Senior Trial Attorney

UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SECRETARY OF LABOR,)
)
 Complainant,) Docket No. 08-1104
)
 v.)
)
 IMPERIAL SUGAR COMPANY;)
 IMPERIAL-SAVANNAH, L.P.)
)
 Respondents.)
 _____)

RESPONDENT'S FIRST INTERROGATORIES TO COMPLAINANT

Pursuant to 29 C.F.R. § 2200.55, Respondent Imperial-Savannah, L.P. (hereinafter "Imperial" and improperly captioned as "Imperial Sugar Company") respectfully requests that Complainant answer the following interrogatories separately, fully, in writing, and under oath within thirty-three (33) days of this request:

DEFINITIONS AND INSTRUCTIONS

1.

The Complainant should answer each interrogatory separately and fully. If for any reason the Complainant cannot answer any interrogatory or part thereof in full, the Complainant should answer to the extent possible and state the reasons for the inability to provide a complete answer. If the Complainant cannot provide the exact information requested, provide the best approximation of the information requested.

2.

If any interrogatory is objected to, the basis for the objection should be stated.

3.

The term "document" is used in its broadest sense to mean every information-containing thing, including copies and duplications, and further including, without limitation, emails, correspondence, papers, records, computer printouts, magnetic tapes, disks or other computer-stored information, audio tapes, videotapes, transcripts of audio tapes or videotapes, film, photographs, checks, bank statements, orders, contracts, agreements, notes of telephone or other conversations, and any other information-containing paper, writing, or thing.

4.

The term "identify" or "describe" or state the "identity of" means:

- (a) as to a person, to state the full name, present business and home addresses, present business and home telephone numbers, and present or last known position in business;
- (b) as to a firm, partnership, corporation, or any other form of business entity, to state the full name, address, and telephone number;
- (c) as to a document, to describe the type of document (e.g., letter, statement, memorandum, telegram, notes of telephone conversation, etc.), its date, the identity of the sender(s) and recipient(s), and its present location and custodian. In lieu thereof, a copy of the document can be produced. As to a document which was, but is no longer in Complainant's possession or subject to its control, Complainant should also state what disposition was made of it, and the particulars of its present location;

(d) as to any communication, to state the type of communication (e.g., oral, written, computer, etc.), the date and substance of such communication, the identity of the participants, and any documents evidencing or supporting such communication.

5.

If any document, communication, or thing is withheld under any claim of privilege or work product, state the precise nature of the objection to production and provide a list of such documents, communications, or things including the following: the identity of the author(s) or participant(s); the identity of each recipient of the document or information and the identity of the individual or individuals to whom copies have been furnished or the information communicated; the date the document was created or the information disseminated; a description of the subject matter of the document or information; and the specific interrogatory or document request to which each document or information is responsive.

INTERROGATORIES

1.

Identify all of Complainant's employees, appointees, contractors, and consultants, whom the Complainant believes to have knowledge supporting or refuting the allegations made in the Citations and Notifications of Penalty issued by Complainant in this matter or any allegation made in the Complaint, and provide a summary of the knowledge possessed by each person identified.

2.

List the name and address of each and every individual whom the Complainant expects to call as an expert witness at the hearing of this matter and state the subject matter upon which the expert is expected to testify, the substance of the facts and opinions to which the expert is

expected to testify, the information upon which the expert will base each opinion, and a summary of the grounds for each opinion.

3.

Identify all individuals, other than those identified in response to Interrogatory No. 2 above, whom Complainant expects to call as a witness at the hearing of this matter.

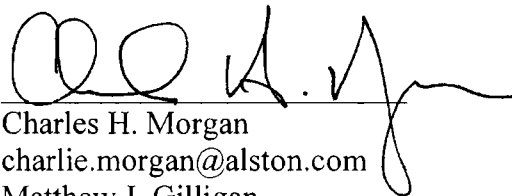
4.

Identify all individuals who participated in gathering the facts that relate to either the Citations and Notifications of Penalty issued by Complainant or to the Complaint.

5.

Identify all documents that you contend support the Citations and Notifications of Penalty issued by Complainant or any allegation contained in the Complaint.

Respectfully submitted, this 32 day of November, 2008.



Charles H. Morgan
charlie.morgan@alston.com
Matthew J. Gilligan
matt.gilligan@alston.com
Jeremy D. Tucker
jeremy.tucker@alston.com
ALSTON & BIRD LLP
1201 West Peachtree Street
Atlanta, Georgia 30309-3424
(404) 881-7000
FAX: (404) 253-8757

Attorneys for Respondents

UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

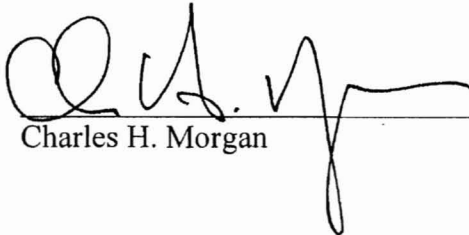
SECRETARY OF LABOR,)
)
Complainant,) Docket No. 08-1104
)
v.)
)
IMPERIAL SUGAR COMPANY;)
IMPERIAL-SAVANNAH, L.P.)
)
Respondents.)
_____)

CERTIFICATE OF SERVICE

This is to certify that I have this date served a copy of the within and foregoing
RESPONDENT'S FIRST INTERROGATORIES TO COMPLAINANT by certified U.S. Mail,
return receipt requested with adequate postage affixed thereon, addressed as follows:

Sharon D. Calhoun, Esq.
Karen E. Mock, Esq.
Christopher D. Helms, Esq.
Office of the Solicitor
U.S. Department of Labor
61 Forsyth Street S.W.
Room 7T10
Atlanta, Georgia 30303

This 30 day of November, 2008.



Charles H. Morgan

UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SECRETARY OF LABOR,)
)
 Complainant,) Docket No. 08-1104
)
 v.)
)
 IMPERIAL SUGAR COMPANY;)
 IMPERIAL-SAVANNAH, L.P.)
)
 Respondents.)
 _____)

**RESPONDENT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS
TO COMPLAINANT**

Pursuant to 29 C.F.R. § 2200.53, Respondent Imperial-Savannah, L.P. (hereinafter “Imperial” and improperly captioned as “Imperial Sugar Company”) respectfully requests that Complainant produce and permit Imperial to inspect and copy the below designated documents, or, in the alternative, produce copies of such documents together with an invoice for any copying charge by mailing said copies and invoice to the undersigned at the offices of Alston & Bird LLP, 1201 West Peachtree Street, Atlanta, Georgia, 30309-3424, within thirty-three (33) days of this request:

DEFINITIONS AND INSTRUCTIONS

1.

Each term defined in the definitions and instructions to Respondents’ First Interrogatories to Complainant served concurrently herewith shall have the same meaning herein as it does in those interrogatories.

EXHIBIT B

2.

These requests extend to all documents in the possession, custody, or control of Complainant.

3.

If Complainant withholds under a claim of privilege or work product any document or thing requested herein, please furnish a list specifying each document or thing to which the privilege is claimed, together with the following information: the author; the name and job title of each recipient; the person or persons to whom copies have been furnished; the date the document was created; the subject matter of the document; the basis upon which privilege is claimed; and the paragraph of this request to which each document or thing is responsive.

REQUESTS

1.

All documents relating to the inspection of Imperial's facilities located in Port Wentworth, Georgia (Inspection No. 310988712), which inspection allegedly serves as the basis for the Citations and Notifications of Penalty issued herein. This request includes, but is not limited to, the following documents:

A. All documents that memorialize the statements by witnesses of alleged incidents, acts, or omissions that relate to the above-referenced inspections or Citations and Notifications of Penalty. The identity of each witness may be deleted from each statement;

B. All documents that reflect the results of any test performed by or for Complainant that relate to the above-referenced inspections or Citations and Notifications of Penalty;

C. All photographs, videotapes, audiotapes, diagrams, or recorded statements taken at the inspection site, any Imperial work site, or any other location, which relate in any way to the above-referenced inspections or Citations and Notifications of Penalty; and

D. The investigative file(s) or inspection file(s), and/or any documents related to the above-referenced inspection that were collected or created by the OSHA compliance officer(s) or other OSHA employee(s) or consultants involved in said inspections, including any and all documents provided to Complainant by a third party either in response to a subpoena or voluntarily.

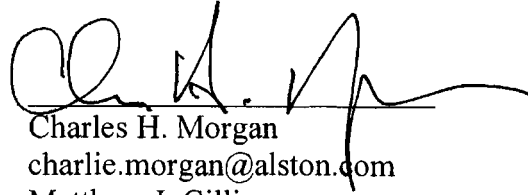
2.

All documents submitted to or received from expert(s) who may be presented at the hearing of this matter, and all documents upon which Complainant's expert(s) either relied in making any judgment or decision or forming any opinion or may rely in making any judgment or decision or forming any opinion and which pertain to testimony the expert(s) may present at the hearing of this matter.

3.

All documents that Complainant has been asked to identify in, has identified in, or has used in framing Complainant's responses to Respondents' First Interrogatories to Complainant, which are served concurrently herewith.

Respectfully submitted, this 30 day of November, 2008.



Charles H. Morgan
charlie.morgan@alston.com
Matthew J. Gilligan
matt.gilligan@alston.com
Jeremy D. Tucker
jeremy.tucker@alston.com
ALSTON & BIRD LLP
1201 West Peachtree Street
Atlanta, Georgia 30309-3424
(404) 881-7000
FAX: (404) 253-8757

Attorneys for Respondents

UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

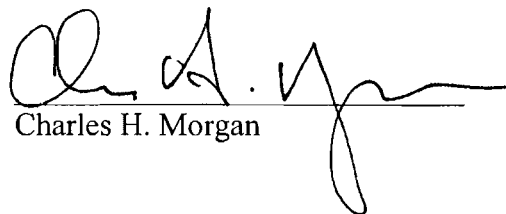
SECRETARY OF LABOR,)
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Complainant,) Docket No. 08-1104
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v.)
)
IMPERIAL SUGAR COMPANY;)
IMPERIAL-SAVANNAH, L.P.)
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)
Respondents.)
_____)

CERTIFICATE OF SERVICE

This is to certify that I have this date served a copy of the within and foregoing
RESPONDENT'S FIRST INTERROGATORIES TO COMPLAINANT by certified U.S. Mail,
return receipt requested with adequate postage affixed thereon, addressed as follows:

Sharon D. Calhoun, Esq.
Karen E. Mock, Esq.
Christopher D. Helms, Esq.
Office of the Solicitor
U.S. Department of Labor
61 Forsyth Street S.W.
Room 7T10
Atlanta, Georgia 30303

This 3^d day of November, 2008.



Charles H. Morgan

UNITED STATES OF AMERICA

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

ELAINE L. CHAO, Secretary of Labor,)	
United States Department of Labor)	
)	
Complainant,)	
)	OSHRC Docket No. 08-1104
v.)	
)	
IMPERIAL SUGAR COMPANY; IMPERIAL-)	
SAVANNAH, L.P.; and their Successors,)	OSHA Inspection No. 310988712
)	
Respondents.)	

ORDER

Complainant's Motion for Extension of Time to Serve Answers and Objections to Respondent Imperial-Savannah, L.P.'s First Interrogatories and First Request for Production of Documents comes now for consideration before this Court. It appears good cause has been shown in support of said motion and Respondents will not be prejudiced by the granting of the same.

Wherefore, premises considered, Complainant's Motion for Extension of Time to Serve Answers and Objections to Respondent's First Interrogatories and First Request for Production of Documents in the above referenced matter is GRANTED.

Complainant is hereby granted up to and including January 9, 2009, to serve her answers and objections to Respondent's Interrogatories and Requests.

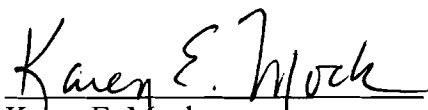
Date: _____

HONORABLE DENNIS L. PHILLIPS
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of December 2008, a true and correct copy of *Complainant's Motion for Extension of Time to Serve Answers and Objections to Respondent's First Interrogatories and First Request for Production of Documents* and proposed *Order* were served upon counsel of record for Respondents via facsimile and first class mail, addressed to:

Charles H. Morgan, Esq.
Alston & Bird, LLP
One Atlantic Center
1201 W. Peachtree Street
Atlanta GA 30309-3424


Karen E. Mock
Senior Trial Attorney