

Hon. Benjamin H. Settle

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

ROSEMERE NEIGHBORHOOD)	Case No.: C07-5080-BHS
ASSOCIATION , a Washington non-profit)	
corporation,)	
)	STIPULATED JUDGMENT IN FAVOR
Plaintiff,)	OF PLAINTIFF
vs.)	
)	
UNITED STATES ENVIRONMENTAL)	
PROTECTION AGENCY , and LISA P.)	
JACKSON , in her official capacity as)	
Administrator of the Environmental Protection)	
Agency,)	
)	
Defendants.)	
)	
)	
)	

STIPULATION

Plaintiff, Rosemere Neighborhood Association ("RNA"), and Defendants, United States Environmental Protection Agency and Lisa P. Jackson, in her official capacity as Administrator of EPA, jointly stipulate to the following facts and legal conclusions, and jointly ask the Court to enter a declaratory judgment in favor of RNA with the following terms.

NOW THEREFORE IT IS HEREBY ORDERED AS FOLLOWS:

Findings of Fact and Conclusions of Law

A. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1346.

B. Venue is properly vested in this Court pursuant to 28 U.S.C. § 1391(e).

C. Lisa P. Jackson is hereby substituted for Stephen L. Johnson pursuant to Federal Rule of Civil Procedure 25(d).

D. On December 13, 2003, and January 15, 2004, RNA filed two letters with the EPA's Office of Civil rights ("OCR") forming the basis of an administrative complaint under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d ("Title VI") and 40 C.F.R. Part 7 ("Part 7"). OCR administratively docketed this complaint as OCR File No. 01r-03-R10 (the "Retaliation Complaint").

E. On August 16, 2005, EPA accepted the Retaliation Complaint for Investigation.

F. Pursuant to 40 C.F.R. § 7.115(c)(1), EPA was required to inform RNA of its preliminary findings within 180 days of accepting the complaint for investigation.

G. EPA failed to inform RNA of its preliminary findings within 180 days as required by law.

H. On April 30, 2007, OCR issued a final investigative report and decision letter in response to the Retaliation Complaint.

I. On December 17, 2007, the District Court granted Defendants' motion to dismiss Plaintiff's complaint as moot.

J. On September 17, 2009, the Ninth Circuit Court of Appeals reversed and remanded the District Court's dismissal order. *Rosemere Neighborhood Ass'n v. U.S. Env't'l Protection Agency*, 581 F.3d 1169 (9th Cir. 2009). In doing so, the Ninth Circuit held that EPA's delay in responding to RNA's Complaint of Retaliation was part of a "consistent pattern

1 of delay.” 581 F.3d at 1175.

2 K. The Court hereby declares that EPA’s failure to comply with 40 C.F.R. §
3 7.115(c)(1) with respect to RNA’s Retaliation Complaint constitutes agency action unlawfully
4 withheld pursuant to 5 U.S.C. § 706(1).

5 **JUDGMENT**

6 1. Judgment is hereby entered in favor of Plaintiff Rosemere Neighborhood
7 Association.

8 2. The Court hereby retains jurisdiction over this matter to enforce the terms of the
9 Settlement Agreement between the parties filed herewith as Exhibit 1.

10 3. The Court’s jurisdiction shall expire pursuant to Paragraphs 2 and 11 of the
11 Settlement Agreement.

12 4. Pursuant to the Settlement Agreement, Defendants shall pay RNA the total
13 amount of \$115,943.49 for attorney’s fees and costs.

14 IT IS SO ORDERED

15 DATED THIS 19th day of March, 2010

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18 BENJAMIN H. SETTLE
19 United States District Judge
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1 STIPULATED TO AND PRESENTED BY:

2 For Plaintiff:

For Defendants:

3 /s/ Christopher Winter

/s/ Rebecca Cohen

4 Christopher Winter
5 Crag Law Center
6 917 SW Oak St.
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7 DATED: March 18, 2010

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