

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 10-0417

In re: Lancelot Kollman Ramos,
a/k/a Lancelot Ramos and
Lancelot Kollman,

Respondent

Order

This matter is before the Motion of the Complainant for a Continuance of the hearing set to commence at 9:00 A.M. Local Time on July 19, 2011 in Tampa, Florida. The Motion indicates without specificity as to the nature of any further allegations or the dates thereof that investigation of this matter is ongoing and the Animal and Plant Health Inspection Service has obtained and continues to obtain further evidence relevant to this case. Counsel further stated that a continuance of the hearing would be in the best interests of the parties and would conserve the resources of all. Complainant has since supplemented her Motion to indicate that Counsel for the Respondent has interposed no objection to the Motion.

A review of the file reflects that the Complaint in this action was filed on September 7, 2010 alleging violations of the Animal Welfare Act (7 U.S.C. §2131, *et seq.*) occurring in 2008 and 2009 . Subsequent to the Respondent's Answer and Request for Hearing filed on September 27, 2010. On July 5, 2011 well after the hearing date was set, Complainant, without obtaining consent of the other party or seeking leave from the

Judge to amend,¹ filed an Amended Complaint extending the period of alleged violations to 2010. The instant motion implicitly suggests that a further Amended Complaint will be required to include additional allegations that violations may have occurred.

It is noted that the Counsel for the Complainant is counsel of record in at least 25 open and pending cases² before the Office of Administrative Law Judges. The pattern of amended complaints being filed is noted in better than 20% of those cases. The generally accepted core values of Administrative Law include fairness, responsiveness to program goals, cost effectiveness and acceptability to those affected.³ It is difficult, if not impossible, to conceive how a pattern of continually adding allegations to a complaint after it has been filed fulfills those core values other than serving program goals as each time an additional allegation is “added,” a respondent incurs additional expense which could have been at least partially alleviated had all allegations been included at the time the original complaint was drafted. While it is manifestly clear that statutes and regulations are to be enforced, public perception suffers when program enforcement actions are commenced prematurely before a thorough investigation has been completed. Moreover, eleventh hour requests of the type sought in this action squander support staff time in securing hearing space, arranging for court reporting services, making travel arrangements as well as inconveniencing witnesses whose attendance has been scheduled.

It now appearing that this action has been brought prematurely before all alleged violations have been thoroughly investigated and documented, the hearing set to

¹ Counsel appears to contend that only a “motion” rather than a request triggers the requirement that leave of the judge be required.

² Some cases involve multiple parties which are consolidated for hearing.

³ Charles H. Koch, *Administrative Law and Practice*, Third Edition, 2010, Preface at x.

commence on July 19, 2011 is **CANCELLED** and this action is **DISMISSED**, without prejudice.

Copies of this Order will be served upon the parties by the Hearing Clerk.

July 15, 2011

Peter M. Davenport
Chief Judge

Copies to: Colleen A. Carroll, Esquire
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