

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

GARY L. BRANHAM,	§	
Plaintiff	§	
	§	
	§	
	§	
vs.	§	CAUSE NO. IP01-0152-T/L
	§	
	§	
JOHN W. SNOW, SECRETARY,	§	
UNITED STATES DEPARTMENT OF	§	
TREASURY/INTERNAL REVENUE SERVICE,	§	
Defendant	§	

**PLAINTIFF'S REQUESTS FOR ADMISSION, REQUESTS FOR PRODUCTION AND
INTERROGATORIES TO DEFENDANT RELATING TO OFFER OF INSTATEMENT**

TO: Defendant, John W. Snow, by and through its attorney of record, Jeffrey L. Hunter, Assistant United States Attorney , Office of the U.S. Attorney, 10 West Market Street, Suite 2100, Indianapolis, Indiana 46204-3048

Pursuant to the Federal Rules of Civil Procedure, Plaintiff hereby propounds the following discovery upon Defendant to be answered in writing within thirty (30) days of the date of service. These requests are continuing in nature. If further information or documents come into your possession or are brought to your attention during preparation for trial or at trial, supplementation of your answers or responses is required under the Federal Rules of Civil Procedure.

Respectfully submitted,

HOUSTON, MAREK & GRIFFIN
Post Office Box 2329
One Twenty Main Place, Suite 301
Victoria, Texas 77902
(361) 573-5500 [telephone]
(361) 573-5040 [facsimile]

Elizabeth Russell
KRIEG DeVAULT L.L.P.
One Indiana Square, Suite 2800
Indianapolis, Indiana 46204-2079
Telephone: (317) 636-4341
Fax: (317) 636-1507

By: _____
John W. Griffin, Jr.
Federal Bar No. 2238

ATTORNEYS FOR PLAINTIFF

Requests for Admission

1. REQUEST NO. 1:

Admit or deny that attached Exhibit A is Defendant's official position regarding "instatement" or "reinstatement" (both of which are defined as to mean Gary Branham's placement in a special agent position).

RESPONSE:

2. REQUEST NO. 2 :

Admit or deny that Defendant had prior to February 1, 2006, informed Plaintiff's counsel and the Court that reinstatement was not feasible and not an option.

RESPONSE:

3. REQUEST NO. 3 :

Admit or deny that Defendant, through its counsel, stated that Plaintiff is not qualified to be a special agent, in an interview with WISH television after the verdict in this case.

RESPONSE:

4. REQUEST NO. 4 :

Admit or deny that Defendant has no written waiver from the Secretary of Treasury or designee, regarding the age limit for entry into special agent positions.

RESPONSE:

5. REQUEST NO. 5 :

Admit or deny that the IRS has not amended its medical standards relating to diabetes for special agent positions since this case was tried to a jury.

RESPONSE:

6. REQUEST NO. 6 :

Admit or deny that the IRS has not amended or supplemented its answers to discovery to disclose any changes to the medical standards for individuals with diabetes who have been selected as special agents.

RESPONSE

7. REQUEST NO. 7 :

Admit or deny that Defendant still contends that Plaintiff's placement as a special agent would pose a direct threat to the public, to others and to himself.

RESPONSE:

8. REQUEST NO. 8 :

Admit or deny that Defendant still contends that Plaintiff is not qualified to be a special agent.

RESPONSE:

9. REQUEST NO. 9 :

Admit or deny that Plaintiff, who will be 42 years old as the end of the second quarter of Fiscal Year 2007, will be in training at Glynco, will be training with and/or competing with men and women in their 20's and 30's.

RESPONSE:

10. REQUEST NO. 10 :

Admit or deny that the IRS views individuals with diabetes who have A1C values in the 8-10 range as a direct threat.

RESPONSE:

11. REQUEST NO. 11:

Admit or deny that the IRS views Plaintiff as a danger due to its view that Plaintiff is subject to dangerously high and dangerously low blood glucose values.

RESPONSE:

12. REQUEST NO. 12 :

Admit or deny that the IRS again considered the exact same facts as were disclosed to it by Plaintiff during the qualification process in 1999 and 2000, that it would again medically disqualify him.

13. REQUEST NO. 13:

Admit or deny that Defendant, through its counsel, while in the elevator at the Seventh Circuit, following oral argument, informed John Griffin that reinstatement was not possible due to the fact that Plaintiff was above the age limit of 37.

RESPONSE:

14. REQUEST NO. 14:

Admit or deny that the front pay/retirement number calculations by Charles Bullock is necessary to make him whole (i.e. to place him in the position he would have been in but for the revocation of the selection to special agent).

RESPONSE:

Interrogatories

Interrogatory No.1: Describe precisely the procedure by which Defendant will evaluate Plaintiff medically if he were to be instated to the special agent position, including the precise criteria under which he will be evaluated.

ANSWER:

Interrogatory No. 2: Please state the names of any physician who will participate in Plaintiff's medical qualification if he is instated to the position of special agent.

ANSWER:

Interrogatory No. 3: Describe precisely the process by which Defendant grants waivers for those above the age of 37 to allow them to enter the special agent position.

ANSWER:

Interrogatory No. 4: Please state the dates and all current scheduled CID training classes at FLETC.

ANSWER:

Interrogatory No. 5 : Precisely when does Defendant request Plaintiff to actually be instated.

ANSWER:

Interrogatory No. 6 : Does the IRS intend that Plaintiff should be instated regardless of whether it appeals this case to the 7th Circuit.

ANSWER:

Requests for Production

1. Request for Production No. 1: Produce any and all waivers or other documents describing Defendant's authority to instate Plaintiff to special agent at the age of 42 and above.

RESPONSE:

2 Request for Production No. 2: Produce all documents describing the medical review process under which Plaintiff will be judged in connection with any instatement to the position of special agent.

RESPONSE:

3. Request for Production No. 3 : Produce all documents detailing statements made by Defendant or counsel to the press or the public after the verdict in this case.

RESPONSE:

CERTIFICATE OF SERVICE

This is to certify that a true, correct and complete copy of the foregoing instrument has been forwarded to all parties of interest on this _____ day of _____ 2006.

Jeffrey L. Hunter Assistant
United States Attorney
OFFICE OF THE U.S. ATTORNEY
10 West Market Street, Suite 2100
Indianapolis, Indiana 46204-3048

John W. Griffin