

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE COMMISSIONER OF LABOR AND INDUSTRY

M. Scott Brener, Commissioner,

Complainant,

v.

**ORDER ON MOTION TO  
COMPEL DISCOVERY**

All American Foods, Inc.,

Respondent.

The above-entitled matter came before Administrative Law Judge Kathleen D. Sheehy on the Respondent's motion to compel discovery. The motion record closed on September 12, 2005, upon receipt of the Commissioner's response.

Paul H. Tanis, Jr., MacKenzie & Gustafson Ltd., 326 South Minnesota Avenue, P.O. Box 360, St. Peter, MN 56082-0360, appeared for All American Foods, Inc. (Respondent).

Julie A. Leppink, Assistant Attorney General, Suite 900, 445 Minnesota Street, St. Paul, MN 55101-2127, appeared for the Commissioner of Labor and Industry.

Based upon all of the files, records, and proceedings herein, and for the reasons set forth in the accompanying Memorandum, the Administrative Law Judge makes the following:

**ORDER**

IT IS HEREBY ORDERED:

That the Respondent's motion to compel discovery is **DENIED**.

Dated this 14<sup>th</sup> day of September, 2005.

S/Kathleen D. Sheehy

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KATHLEEN D. SHEEHY  
Administrative Law Judge

## MEMORANDUM

The Respondent served by mail Interrogatories, Requests for Production of Documents, and Requests for Admission on August 9, 2005. On August 16, 2005, the Commissioner responded to the Requests for Admission. On September 2, 2005, the Respondent brought this motion to compel responses to the Interrogatories and the Requests for Production of Documents.

The rules of the Office of Administrative Hearings permit the use of any means of discovery, including Interrogatories and Requests for Production of Documents, which would be available pursuant to the Rules of Civil Procedure for the District Courts of Minnesota.<sup>1</sup> Under Minn. R. Civ. P. 33.01(b) and 34.02, responses to those requests are due in 30 days. Responses to Requests for Admission are due ten days from receipt of the request.<sup>2</sup> If any of the discovery requests were served by mail, then three days is added to the time for responding.<sup>3</sup>

It appears that the Commissioner responded in a timely manner to the Requests for Admission, and the responses to the Interrogatories and Requests for Production of Documents were not due until September 12, 2005. The Respondent's motion to compel discovery was filed ten days before the responses were due. The motion is premature and is denied.

K.D.S.

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<sup>1</sup> Minn. R. 1400.6700, subp. 2.

<sup>2</sup> Minn. R. 1400.6800.

<sup>3</sup> Minn. R. 1400.6100, subp. 2.