

**VENKAREDDY CHENNAREDDY; ROGER A. CARROLL  
v. U.S. General Accounting Office**

**Docket No. 85-704-CA-86**

**Date of Decision: August 14, 1987**

**Cite as: Chennareddy, et al. v. GAO, Docket No. 85-704-CA-86 (8/14/87)**

**Before: Jonathan E. Kaufman, Chairman**

**Headnotes:**

**Discovery**

**Motion to Compel**

**Privilege**

**ORDER DENYING MOTION TO COMPEL**



Respondent specifically addressed its interrogatories and request for production of documents to Petitioners' counsel under Rules 33 and 34 (respectively) of the Federal Rules of Civil Procedure. Respondent also subpoenaed Petitioners' counsel for deposition. Petitioners' counsel responded to the Rule 33 requests directed to him by objecting to such discovery on the grounds that 1) interrogatories directed to counsel are improper, 2) information sought regarding the identity of prospective class members and any communications with such prospective class members is protected by the attorney-client privilege, and 3) documents constituting attorney work product are privileged. Petitioners' counsel did submit to deposition, but adjourned the deposition before it was completed and refused to return for the completion of his interrogation. During his deposition, Petitioners' counsel refused to answer certain questions on the grounds of privilege.

We first deal with the issue of Respondent's discovery requests directed to Petitioners' counsel. It is well-settled that Rule 33 and 34 requests apply only to parties and not to their counsel. Hickman v. Taylor, 329 U.S. 495, 503 (1947); Steelman v. U.S. Fidelity and Guaranty Co., 35 F.R.D. 120 (W.D. Mo. 1964). For that reason, we deny Respondent's motion to compel the answers to their Rule 33 and 34 discovery requests directed to Petitioners' counsel.

Respondent's taking of the deposition of Petitioners' counsel was presumably pursuant to Rule 26, F.R.C.P., and we hold that discovery proper. However, Petitioners' counsel claimed attorney-client privilege when asked in his deposition for the identities of those persons who possess information relevant to this proceeding and who have allegedly provided GAO personnel records to him. We again decline to compel the production of such information. If, as counsel asserts, such persons, communications, and documents were revealed to him during meetings to acquire his legal services, the attorney-client privilege certainly obtains. Upjohn Co. v. United States, 449 U.S. 383, 396-97 (1981); Fisher v. United States, 425 U.S. 391, 403 (1975). Even were such matters not privileged, there has been no showing by GAO that any of the information requested is relevant, and that GAO has a substantial need for the information. Id.; Loctite v. Fel-Pro, Inc., 667 F.2d 577 (7th Cir. 1981). It must be borne in mind that the underlying cause of action in this proceeding relates to the certification of the class, and therefore, the scope of discovery is decidedly more limited in the matter of what is relevant evidence and what is not. At this stage, relevant evidence is that evidence which relates to the issue of whether or not a class action under Rule 23 can be maintained.

GAO has not shown how the information sought under the motion to compel is necessary to the disposition of the issue of class certification.

Accordingly, the Respondent's motion to compel is hereby DENIED.

Jonathan E. Kaufmann  
Chairman

DATE: 8/14/87