

Henry and Evangelina Goltz
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September 30, 2006

Judge Xavier Rodriguez
U.S. District Court
655 E. Durango Blvd.
San Antonio, Texas 78206

Dear Sir:

Reference: **Civil Action No. SA-06-CA-503-XR**

We have received your ORDER dated September 28, 2006. While you refer to several issues in your ORDER, we are writing to you today about one specific matter. The third sentence reads: "The Court STRIKES Defendants' Amended Answer (Docket No. 19) because Defendants have failed to request leave of the Court under Fed. R. Civ. P. 15(a) to file an amended pleading." Below, we have reproduced Rule 15:

Rule 15. Amended and Supplemental Pleadings

(a) Amendments.

A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, the party may so amend it at any time within 20 days after it is served. Otherwise a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service of the amended pleading, whichever period may be the longer, unless the court otherwise orders.

We apologize for any disrespect shown to the Court. Since we are proceeding *pro per*, we are not as well informed as we might be. We ask the Court's indulgence in this matter as we believed that we were permitted to submit an Amended Answer under the first clause of the rule as underlined above. Obviously, we misunderstood the text of the rule, and we ask the Court's indulgence.

We request the "leave of court" to permit the filing of the Amended Answer and accept Docket No. 19 under the provision that "leave shall be freely given when justice so requires." The Amended Answer contained Affirmative Defenses which were omitted from the original Answer and which are necessary for justice to prevail.

Thank you for your consideration in this urgent matter, and we await your reply. We have included an ORDER to affect this one change. We trust that the other matters can be properly handled in a Reply Brief.

Sincerely,

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

VS.

**HENRY D. GOLTZ, EVANGELINA
GOLTZ, and WELLS FARGO HOME
MORTGAGE,**

Defendants.

Civil Action No. SA-06-CA-503-XR

ORDER

On this date, having received a Request from the Defendants to permit the filing of an Amended Answer, and in consideration of justice and due process, the Court ORDERS that Defendants are permitted to file their Amended Answer. Docket No. 19 – Defendants Amended Answer is reinstated.

It is so ORDERED.

SIGNED this ____ day of October, 2006

XAVIER RODRIGUEZ
UNITED STATES JUDGE