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DOJ Pushes for Individual Settlements with Hispanic, Female Farmers

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Larry Chavarria, one of the plaintiffs in a discrimination lawsuit brought by Hispanic farmers against the Agriculture Department. (Justice for Hispanic Farmers)

The Justice Department is willing to settle two discrimination lawsuits brought by Hispanic and female farmers against the Agriculture Department — but only on an individual basis, according to a summary of the proposed terms reviewed by Main Justice.

Last month, the Justice Department offered \$1.3 billion to settle the suits, which allege that the Agriculture Department discriminated against minority and female farmers in the awarding of government loans and other assistance. The amount of the proposed settlement was leaked to the [Associated Press](#) [2], but the details were not made public.

After news of the offer leaked, a lawyer for the Hispanic farmers [called](#) [3] the government's proposal "woefully inadequate," saying the government had settled a similar case involving African-American farmers on more favorable terms and that the method of the settlement would make it harder for Hispanic farmers with valid claims to receive compensation.

According to the summary reviewed by Main Justice, the Agriculture Department and DOJ would provide notice of the settlement to Hispanic and female farmers using direct mail, posters in local USDA offices or by contacting Hispanic groups to get out the message.

Any farmers who were not already named as plaintiffs in the initial lawsuits would have between 90 and 120 days to file a complaint with the federal district court in order to qualify for the settlement. The USDA and DOJ would then select an administrator to review claims

and propose settlements — either as a series of individual settlements or a group settlement that would not be class certified.

A successful claimant could get as much as \$50,000, though that number could be lower depending on the number of farmers who file claims.

The question of whether the two groups qualify as a class has been the primary bone of contention throughout the lawsuit.

In the 1990s, a group of African-American farmers successfully filed a discrimination lawsuit against the Agriculture Department, the so-called Pigford case named for the lead plaintiff. The black farmers received more than \$1 billion under a 1999 class action [settlement](#) ^[4] with the government and are expected to get another \$1.15 billion under a [deal](#) ^[5] currently before Congress.

In 1999 and 2000, other minority groups filed class action lawsuits against the USDA: Hispanic farmers, in a suit called *Guadalupe L. Garcia Jr. v. the Secretary of Agriculture*; women farmers in *Rosemary Love v. Thomas Vilsack*; and American Indian farmers in a case called *Keepseagle, et al. v. Vilsack, et al.*

In the Keepseagle case — like the Pigford case before it — a federal judge certified the group as a class. (Justice Department lawyers have been in negotiations with the Keepseagle plaintiffs and lawyers, and the groups have until the end of July to reach a [settlement](#) ^[6].)

But federal judges have rejected class status in the Hispanic and women farmers' cases. Class status gives more leverage to the plaintiffs: the government would be required to get court-approval for notices and class status would make it easier and cheaper for farmers to apply for a settlement. Instead of paying a \$300 or higher court filing fee — as would occur under the government's current proposal — a farmer would only have to fill out and mail in a court-approved claim form.

Lawyers for the Hispanic farmers — **Stephen Hill** of [Howrey LLP](#) ^[7] and attorneys from the firm [Freeh Sporkin & Sullivan, LLP](#) ^[8] — have pushed to have the plaintiffs recognized as a class, pointing out that Hispanic and female farmers outnumber Black farmers by nearly 12-to-1, according to the USDA's 2007 Agriculture Census.

A representative from Howrey did not respond to a request for comment.

A Justice Department spokeswoman declined to comment.