

HISPANIC FARMERS FILE SUIT AGAINST USDA AND DOJ ALLEGING BLATANT DISCRIMINATION IN SETTLEMENT OFFER

Offer would treat Hispanic and Female Farmers Less Favorably Than Other Minority Groups
In Settling Discrimination Claims

Washington, DC, March 15, 2011. Lawyers for Hispanic farmers today filed a new lawsuit in DC District Court alleging that the very settlement offer made to Hispanic and female farmers to address years of discrimination by the USDA is, on its face, discriminatory and unconstitutional.

According to the complaint,

“...Despite the publicly acknowledged like pattern and practice of discrimination, Defendants have not been fair and even handed in settling the claims of minority farmers, all of whom USDA similarly victimized, but have intentionally proceeded unfairly, unequally, and disproportionately, favoring African-American and Native American farmers in the settlement of their claims while disfavoring similarly situated Hispanic and female farmers in the terms and amounts offered to settle their identical claims.

More particularly, even though plaintiffs in all four identical class actions alleged the same substantive discrimination, even though the USDA admittedly committed the same unlawful discriminatory practices against the plaintiffs in all four cases, and even though Congress and the Obama Administration have both called for expeditiously and fairly settling all of these cases, Defendants have refused to offer the Hispanic and female farmers settlement terms that provide them with a meaningful chance at comprehensive settlement of their discrimination claims while agreeing to settle comprehensively the very same discrimination claims of African-American and Native American farmers without imposing on them the same onerous conditions.”

As examples of the discriminatory nature of the settlement offer to Hispanic and female farmers, the complaint focuses on differences in monetary, claims process and other elements of the government's offer. (A full chart of the differences in the various settlement offers follows).

Individual Monetary Amounts: For African American farmers, in the Pigford I settlement, two tracks were established - Track A under which they could recover \$50,000, and Track B, under which they could recover such damages as they could without limitation. Under the current settlement offer to Hispanic and female farmers, the government proposes a two-tier dispute resolution process in which Hispanic and female claimants can recover up to \$50,000 per individual claimant. Unlike the settlements offered to African-American and Native American farmers, Hispanic and female farmers with claims greater than \$50,000 must either forgo those claims or file and prosecute an expensive federal lawsuit.

President Obama, Attorney General Holder and Secretary Vilsack have all stated on numerous occasions that they wanted to “close this chapter” on the history of admitted rampant discrimination perpetrated upon minority farmers in the administration of the Department's farm loan and farm benefit programs. They have had the opportunity to do so many times during the last eleven years since the original suit, *Garcia v. Vilsack* was filed. While they have perhaps closed the chapter for African American and Native American farmers, they have not

come close to doing so for Hispanic American or female farmers. With each new twist to the settlement proposals, the Administration seems determined to place upon Hispanic and female farmers that are substantially less generous and more onerous than the terms it readily provided similarly situated African-American and Native American farmers.

The complaint calls the current government offer unconstitutional as follows:

“The government’s unilateral attempt to impose the “program” as a settlement of Hispanic farmers’ claims in a manner substantially different from and substantially less favorable than the settlement provided to African-American and Native American farmers is wholly inconsistent with the rule of law and the equal protection guaranteed by the Constitution of the United States.

For reasons that have no rational basis in law or fact, Defendants, because of the farmers’ racial differences, continue to deny Hispanic farmers the same substantial benefits, and, indeed, impose on them significantly harsher burdens, than are found in the settlement terms Defendants have offered to African-American and Native American farmers, notwithstanding that the Hispanic, African-American and Native American farmers admittedly have long suffered the substantively identical discrimination pervading the USDA’s farm benefit programs and are equally entitled to full redress for their like injuries.

Defendants’ refusal to settle fully and comprehensively the Hispanic farmers’ claims on materially the same terms that Defendants have agreed to settle the very same claims of African-American and Native American farmers is intentional and continues USDA’s persistent discrimination against Hispanic farmers because of their Hispanic origin in violation of Plaintiffs’ right to due process and equal treatment under law in the administration of justice.

Finally, the complaint lists four counts of which it feels the government is guilty in its attempt to resolve the claims of Hispanic farmers.

COUNT ONE - VIOLATION OF THE FIFTH AMENDMENT - Governmental Defendants - EQUAL PROTECTION

Equal protection of the laws demands that similarly situated citizens be treated equally in the administration of justice. The underlying discrimination experienced by the Hispanic farmers was substantively identical and their injuries were substantively identical to those sustained by the African-American and Native American farmers. Yet, based solely on differences of race, Defendants have provided the African-American and Native American farmers with higher compensation allocations in settlement benefits, and with far more favorable procedural measures to realize those benefits, than they have offered to the Hispanic farmers.

COUNT TWO VIOLATION OF THE FIFTH AMENDMENT - Governmental Defendants - DUE PROCESS

Due process guarantees Plaintiffs a fair, impartial, and even handed process to ensure that their claims of manifest discrimination are and will be resolved in meaningful fashion, and that they will receive full and adequate redress for their injuries.. The government’s announced

“program” provides no independent, fair and impartial oversight in the administration of settled claims.

**COUNT THREE VIOLATION OF THE FIFTH AMENDMENT -Individual Defendants
EQUAL PROTECTION**

Equal protection of the laws demands that similarly situated citizens be treated equally in the administration of justice. By continually refusing to discuss or settle the Hispanic farmers’ claims, and by offering settlement benefits on far less favorable terms than given to African-American and Native American farmers, the individual Defendants intentionally engaged in conduct designed to disfavor members of one racial group, all of Hispanic origin, while favoring members of other racial groups, including either African-American or Native American farmers, all while acting under the color of federal law in violation of the Hispanic farmers’ clearly established constitutional right.

**COUNT FOUR VIOLATION OF THE FIFTH AMENDMENT - Individual Defendants
DUE PROCESS (See Count Two above)**

Comparison chart of settlement offers to minority farmers



Comparison chart 3
12 11 full V3.pdf

For more information on this case, pls visit our website: www.garciaclassaction.org