

Multiple Documents

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**In re BLACK FARMERS DISCRIMINATION
LITIGATION**

Misc. No. 08-mc-0511 (PLF)

This document relates to:

ALL CASES

**MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT,
CERTIFICATION OF A RULE 23(b)(1)(B)
SETTLEMENT CLASS, AND FOR OTHER PURPOSES**

Plaintiffs James Copeland, Earl Moorer (on behalf of the estate of John Moorer), and Marshallene McNeil on behalf of themselves and the proposed Class they seek to represent, respectfully move this Court to enter the proposed Order Granting Preliminary Approval of Settlement Agreement, Certifying a Rule 23(b)(1)(B) Class, and for Other Purposes (“Preliminary Approval Order”) (Ex. 1).¹ For the reasons set forth in the accompanying Memorandum of Points and Authorities, this Court should preliminarily approve the Settlement Agreement executed on February 18, 2010, and amended by the Parties as of March 23, 2011 (Ex. 2), and enter the proposed Preliminary Approval Order. In addition to preliminarily approving the Settlement Agreement, the proposed Preliminary Approval Order:

- a. Conditionally certifies, for settlement purposes only, a non-opt-out Settlement Class, pursuant to Federal Rule of Civil Procedure 23(b)(1)(B), defined as follows:

¹ Pursuant to Local Rule 7(m), Plaintiffs’ Counsel have conferred with Defendant’s Counsel regarding this Motion. Defendant’s Counsel has indicated that they do not oppose this Motion and likely will file a separate paper stating their support for the Settlement Agreement.

All individuals: (1) who submitted late-filing requests under Section 5(g) of the *Pigford v. Glickman* Consent Decree on or after October 13, 1999, and on or before June 18, 2008; but (2) who have not obtained a determination on the merits of their discrimination complaints, as defined by Section 1(h) of the Consent Decree.²

- b. Pursuant to Federal Rule of Civil Procedure 23(e), approves the proposed Notice to the Class and directs its dissemination as set forth in the proposed Notice Program (Ex. 5, Att. 3);
- c. Designates James Copeland, Earl Moorner, and Marshallene McNeil as Representatives for the Class;
- d. Pursuant to Federal Rule of Civil Procedure 23(g), designates the firms listed in ¶ 4 of the Preliminary Approval Order as Class Counsel;
- e. Designates Andrew H. Marks of Crowell & Moring LLP, Henry Sanders of Chestnut, Sanders, Sanders, Pettaway & Campbell, L.L.C., and Gregorio A. Francis of Morgan & Morgan, P.A., as Lead Class Counsel;
- f. Designates as members of the Plaintiffs' Steering Committee the counsel so identified in ¶ 4 of the Preliminary Approval Order;
- g. Designates Epiq Systems, Inc. to serve as Claims Administrator;
- h. Designates The McCammon Group to serve as the Track A Neutral, and sets forth procedures for the administration of their oath of duty;
- i. Designates Michael Lewis to serve as the Track B Neutral, and sets forth procedures for the administration of his oath of duty;
- j. Designates Kinsella Media, LLC to serve as the Notice Provider;

² The *Pigford* Consent Decree, entered by this Court on April 14, 1999, is attached as Exhibit 3.

- k. Approves the “Cost Cap” as the term is defined in Section II.I of the Settlement Agreement;
- l. Orders that a “Track A Individual Counsel Fee,” as the term is defined in Section II.II of the Settlement Agreement, may not exceed 2% of a Class Member’s Final Track A Award;
- m. Orders that a “Track B Fee,” as defined in Section II.QQ of the Settlement Agreement, may not exceed 8% of a Class Member’s Final Track B Award;
- n. For purposes of Notice, preliminarily approves a “Fee Award,” as defined in Section II.N of the Settlement Agreement, in the range of 4.1% and 7.4% of the total funds appropriated for Section 14012 claims;
- o. Pursuant to Federal Rule of Civil Procedure 26(c), enters a Protective Order to manage the privacy and use of the *Pigford* Timely 5(g) List, the *Pigford* Participants List, and the *Pigford* Opt-Out List, as those terms are defined in Sections II.BB, II.AA, and II.Z of the Settlement Agreement;
- p. Schedules a hearing as soon as reasonable to consider whether to finally approve the Settlement Agreement;
- q. Establishes procedures for the submission of objections to this Settlement Agreement; and
- r. Establishes other requirements and procedures necessary to the effectuation of the Settlement Agreement.

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Dated: March 30, 2011

CERTIFICATE OF SERVICE

I certify that on March 30, 2011, I filed a copy of this motion via the ECF system, and sent copies by electronic-mail to the counsel of record in the above-referenced case.

/s/

Michael W. Lieberman

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**In re BLACK FARMERS DISCRIMINATION
LITIGATION**

Misc. No. 08-mc-0511 (PLF)

This document relates to:

ALL CASES

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF
SETTLEMENT, CERTIFICATION OF A RULE 23(b)(1)(B)
SETTLEMENT CLASS, AND FOR OTHER PURPOSES**

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I. INTRODUCTION

Twelve years ago, this Court approved a historic settlement of the *Pigford v. Glickman* class action, which sought relief on behalf of a class of African American farmers against whom “the [U.S.] Department of Agriculture and its county commissioners [had] discriminated . . . when they denied, delayed or otherwise frustrated the applications of those farmers for farm loans and other credit and benefit programs.” 185 F.R.D. 82, 85 (D.D.C. 1999) *aff’d*, 206 F.3d 1212 (D.C. Cir. 2000).

The Consent Decree approved by the Court in *Pigford* created a non-judicial claims adjudication process intended to resolve, on a class basis, the individual claims of discrimination between January 1, 1981 and December 31, 1996 brought by African American farmers and prospective farmers against the U.S. Department of Agriculture (“USDA”), and provided monetary relief to compensate affected claimants for the discrimination they suffered. *See* Ex. 3, Consent Decree. More than 22,000 *Pigford* claimants had their claims adjudicated under the Consent Decree; of these, 69% were found to be meritorious, and awards of more than \$1 billion were paid in compensation to successful claimants.¹

Contrary to the hopes of all involved, however, the Consent Decree in *Pigford* did not achieve justice for everyone that it was intended to reach. After the claim deadline in the Consent Decree had passed, more than 66,000 additional petitions were submitted by claimants seeking to participate in *Pigford* – nearly three times the number actually adjudicated. *See* Ex. 4, Declaration of Richard Bithell (June 4, 2009) (“Bithell Decl.”), ¶ 7. Because these petitions were filed late, most of these “late-filing” petitioners were unable to participate in the *Pigford* claims process and, thus, never had their individual discrimination claims determined on the

¹ *See* Office of the Monitor, *National Statistics Regarding Pigford v. Vilsack Track A Implementation as of March 10, 2011*, <http://www.pigfordmonitor.org/stats/>.

merits.² Given the extraordinarily large number of late filers, Congress was not satisfied that all potentially deserving victims of discrimination by USDA had been given a full opportunity to have their *Pigford* claims determined on the merits. As a result, on June 18, 2008, Congress passed and the President signed into law the Food, Conservation, and Energy Act of 2008 (“Farm Bill”),³ Section 14012 of which created a new “remedial” cause of action designed to “giv[e] a full determination on the merits for each *Pigford* claim previously denied that determination.” Farm Bill § 14012(d).

The Settlement Agreement (Ex. 2) that is the subject of this Motion would bring final resolution, on a class basis, to claims under Section 14012 of the Farm Bill. In doing so, it will put in place a process to complete the remedial effort initiated by the *Pigford* Consent Decree more than a decade ago. The Agreement establishes a streamlined non-judicial claims process – similar to that established by the 1999 *Pigford* Consent Decree – whereby Class Members can obtain the determination on the merits of their discrimination claims that they were unable to obtain in the *Pigford* case. Successful claimants will receive cash payments from the \$1.25 billion provided by Congress to fund this Settlement,⁴ which, in addition to compensating claimants who prevail in the claims determination process, must also be used to pay the costs of implementing the claims process, the costs of an Ombudsman to assist the Court in carrying out its oversight function, and Class Counsel fees. To enable this result, the Settlement provides for the certification of a non-opt-out “limited fund” class pursuant to Federal Rule of Civil

² Some “late-filing” petitioners were found to have met the stringent requirement set out in Section 5(g) of the Consent Decree that “late-filed” claims would be considered *only* upon a showing by the petitioner that the claim was filed late due to “extraordinary circumstances beyond his [or her] control.” Ex. 3, Consent Decree § 5(g).

³ Pub. L. No. 110-246, 122 Stat. 1651, 2209 (2008).

⁴ Availability of these funds is contingent upon this Court’s approval of *this* Settlement. Claims Resolution Act, Pub. L. No. 111-291, §§ 201(a)-(b), 124 Stat. 3064, 3070 (2010).

Procedure 23(b)(1)(B), providing USDA with the global and final resolution of *Pigford* claims it has long sought.

The Settlement before this Court is the culmination of nearly three years of litigation and intensive negotiation between the Parties, and many more years of Legislative and Executive Branch advocacy by black farmer organizations and others on behalf of those farmers and prospective farmers who allege they were the victims of USDA loan discrimination, but who did not have their claims resolved under the *Pigford* Consent Decree. Plaintiffs⁵ believe this Settlement is a landmark achievement in the struggle for civil rights in the United States, and a fitting end of the path toward justice carved by this Court in *Pigford* more than a decade ago. We urge this Court to approve the Settlement, certify the proposed Settlement Class, and enter the Preliminary Approval Order (Ex. 1) directing Notice (Ex. 5) to putative Class Members and providing other relief.

II. FACTUAL AND PROCEDURAL HISTORY

A. Pigford v. Glickman

In 1997, African American farmers and prospective farmers brought a class action against the U.S. Department of Agriculture, alleging, *inter alia*, discrimination against them by USDA in the administration of farm programs, in violation of the Equal Credit Opportunity Act, 15 U.S.C. § 1691(a) (2006), and the Administrative Procedure Act, 5 U.S.C. § 706 (2006). The Court is well acquainted with that litigation, and a detailed recitation of the case history can be found in *Pigford v. Glickman*, 185 F.R.D. 82 (D.D.C. 1999). *Pigford* ultimately was settled, a class was certified, and on April 14, 1999, this Court entered a Consent Decree, which, *inter alia*,

⁵ Named Plaintiffs are James Copeland, Earl Moorner (on behalf of the Estate of John Moorner), and Marshallene McNeil.

established a claims adjudication process by which class members could seek resolution of their discrimination claims. Ex. 3, Consent Decree at §§ 5, 9-10.

The *Pigford* claims adjudication process provided two “tracks” by which African American farmers and prospective farmers could present their claims for resolution. The first, “Track A,” prescribed a streamlined process whereby claimants whose claim met a “substantial evidence” burden of proof could obtain a liquidated damages award of \$50,000, discharge of the principal amount of outstanding debt to USDA that was incurred under, or affected by, the loan program that formed the basis of their discrimination claims, and an additional 25% payment to offset taxes on this income. *Id.* at § 9(a). The second track, “Track B,” provided for a full evidentiary hearing on each discrimination claim and permitted recovery of *actual* economic losses, upon proof – by the more rigorous “preponderance of the evidence” standard – that the claimant had been discriminated against by USDA and suffered economic losses in the amounts claimed. *Id.* at § 10.

Under the terms of the Consent Decree, *Pigford* class members were required to file their claims with the Facilitator by October 12, 1999. *Id.* at § 5(c). That deadline could be extended, but only upon a showing by the claimant that the failure to submit a timely claim was due to “extraordinary circumstances beyond [the claimant’s] control.” *Id.* at § 5(g). By Court Order, the deadline for all such “late-filing” requests was set at September 15, 2000. *See* Ex. 6, Order of July 14, 2000, ¶ 2.

Of the nearly 61,000 “Late Filers” who submitted a request to participate in the *Pigford* claims resolution process *after* the October 12, 1999 deadline set by the Consent Decree but *on or before* the September 15, 2000 “late-filing” deadline, more than 58,000 were determined not to have satisfied the “extraordinary circumstances” test set by the Court. Ex. 4, Bithell Decl. ¶ 6. In addition, 7,911 individuals (so-called “Late-Late Filers”) filed their “late-filing” request to

participate in the *Pigford* claims resolution process *after* the September 15, 2000 deadline, but before passage of the Farm Bill on June 18, 2008.⁶ *Id.* at ¶ 7. Thus, altogether, more than 66,000 *Pigford* claimants with potentially meritorious claims did not have their individual claims heard on the merits. *Id.* at ¶ 10.

B. The 2008 Farm Bill

As noted above, the Farm Bill was signed into law on June 18, 2008.⁷ Section 14012 of this Act creates a new cause of action for “any *Pigford* claimant who ha[d] not previously obtained a determination on the merits of a *Pigford* claim” to “obtain that determination . . . in a civil action brought in the United States District Court for the District of Columbia” Farm Bill § 14012(b). The term “*Pigford* claimant” is defined as “an individual who submitted a late-filing request under section 5(g) of the [*Pigford*] [C]onsent [D]ecree.” Farm Bill § 14012(a)(4). Section 14012(d) further provides that the Act should be “liberally construed so as to effectuate its remedial purpose of giving a full determination on the merits for each *Pigford* claim previously denied that determination.”

As with the *Pigford* Consent Decree, Section 14012 provides for two “tracks” by which claimants could obtain a determination of the merits of their discrimination claims: (1) an “expedited resolution[.]” process, similar to Track A in the *Pigford* case, wherein claimants who proved the merits of their claims by “substantial evidence” would be awarded liquidated damages of \$50,000, a discharge of certain outstanding debt owed to USDA, and a tax payment

⁶ Not included in this figure are an additional 17,515 individuals who submitted “form letters discussing the Consent Decree which could be construed as late filing requests.” Ex. 4, Bithell Decl. ¶ 7. Some of these individuals, depending on the content of their “form letters,” may meet the criteria proposed here for Class Membership and thus may be eligible to file claims in this case.

⁷ Although the Farm Bill was originally passed on May 22, 2008, *see* Pub. L. No. 110-234, 122 Stat. 923, it was repealed due to technical deficiencies and re-enacted in full on June 18, 2008. *See* Pub. L. No. 110-246, 122 Stat. 1664.

equal to 25% of the liquidated damages and loan principal discharged, Farm Bill § 14012(f); and (2) a process similar to Track B in the *Pigford* case, wherein claimants who satisfy the higher preponderance of the evidence standard of proof for their claims would be awarded their actual damages. Farm Bill § 14012(g). And, as in the *Pigford* Consent Decree, Section 14012 limits loan acceleration and foreclosures during the pendency of a Section 14012 claim. *Compare* Farm Bill § 14012(h) with Ex. 3, Consent Decree § 7.

There are, however, significant differences between the remedial process established by the *Pigford* Consent Decree and that provided for by Section 14012. First, and most significant, is the limitation on funds available for “payments and debt relief” under Section 14012. While the *Pigford* claims resolved under the Consent Decree were paid from the Judgment Fund,⁸ and without any limitation on the total amount of claims paid, claims resolved pursuant to Section 14012 are to be paid solely from funds appropriated to the Commodity Credit Corporation, and, under the Farm Bill, were initially limited to a total of \$100 million. Farm Bill §§ 14012(c)(2), 14012(i)(1). The Farm Bill anticipated, however, the possibility that additional funds could be appropriated to pay Section 14012 claims by “authorizing to be appropriated such [additional] sums as are necessary to carry out [Section 14012].” *Id.* at § 14012(i)(2).

Second, the *Pigford* Consent Decree required USDA to pay the costs of implementing the Decree (including the cost of the *Pigford* Facilitator, neutral adjudicators, and class notice), the cost of the *Pigford* Monitor, and attorneys’ fees from funds separate from those paid out from the Judgment Fund as awards to claimants. *See* Consent Decree §§ 3(b), 9(c), 10(k), 12(a), 14. Section 14012 of the Farm Bill, by contrast, is silent as to an extrajudicial claims resolution process, or any separate funding for such an approach. Thus, any funding for Notice, Neutrals,

⁸ 31 U.S.C. § 1304 (2006).

or other components of an extrajudicial claims process, in addition to Ombudsman Costs and attorneys' fees, must be paid out of the same "limited fund" available to pay meritorious claims. *See* Farm Bill §§ 14012(c)(2), 14012(i)(1).

Finally, the *Pigford* Consent Decree required claimants to show that they received less favorable treatment from USDA than a "specifically identified, similarly situated white farmer," in order to obtain relief. *See* Ex. 3, Consent Decree § 9(a)(i)(C). This requirement was made less burdensome for Section 14012 claimants by a statutory requirement that USDA provide claimants with information "on farm credit loans and noncredit benefits, as appropriate, made within the claimant's county" during the relevant time period of the claim. Farm Bill § 14012(e). This requirement essentially mandated that USDA provide Section 14012 claimants with the "similarly-situated white farmer" data they would need to make this showing. Compliance with this requirement, absent a settlement, would have imposed significant costs and administrative burdens on USDA.⁹

C. Litigation of Section 14012 Claims and the February 18, 2010 Settlement Agreement

From enactment of the Farm Bill in June 2008 through February 2010, more than 28,000 putative Class Members, represented by twenty-five different law firms, and in 17 separate complaints, filed suit in this Court under Section 14012.¹⁰ These complaints were consolidated

⁹ The 2010 Claims Resolution Act deleted § 14012(e) of the Farm Bill.

¹⁰ The seventeen complaints, in order of filing, are:

- a. *Agee v. Schafer*, C.A. No. 08-0882;
- b. *Kimbrough v. Schafer*, C.A. No. 08-0901;
- c. *Adams v. Schafer*, C.A. No. 08-0919;
- d. *National Black Farmers Association v. Schafer*, C.A. No. 08-00940;
- e. *Bennett v. Schafer*, C.A. No. 08-00962;
- f. *McKinney v. Schafer*, C.A. No. 08-1062;
- g. *Bolton v. Schafer*, C.A. No. 08-1070;
- h. *Black Farmers and Agriculturists Association, Inc v. Schafer*, C.A. No. 08-1188;
- i. *Hampton v. Schafer*, C.A. No. 08-1381;

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by this Court into the above-captioned case, *In re Black Farmers Discrimination Litig.*, Misc. No. 08-mc-0511 (D.D.C. 2008).¹¹

For the better part of two years, counsel for the Plaintiffs in those actions and counsel for the Secretary vigorously litigated *In re Black Farmers Discrimination Litig.*, including extensive briefing on class certification, coordination of case management, and intensive, arms-length settlement negotiations. These efforts culminated in the execution of a comprehensive Settlement Agreement on February 18, 2010, which proposed a process to resolve finally and globally all Section 14012 cases through certification of a Rule 23(b)(1)(B) “limited fund” settlement class. The Settlement, however, was premised on the appropriation by Congress of an additional \$1.15 billion (additional to the \$100 million previously appropriated by the Farm Bill) to pay meritorious claims and cover implementation costs and attorneys’ fees.¹²

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- j. *Robinson v. Schafer*, C.A. No. 08-1513;
- k. *James v. Schafer*, C.A. No. 08-2220;
- l. *Beckley v. Vilsack*, C.A. No. 09-1019;
- m. *Sanders v. Vilsack*, C.A. No. 09-1318 (dismissed for lack of service);
- n. *Russell v. Vilsack*, C.A. No. 09-1323;
- o. *Bridgeforth v. Vilsack*, C.A. No. 09-1401;
- p. *Allen v. Vilsack*, C.A. No. 09-1422; and
- q. *Anderson v. Vilsack*, C.A. No. 09-1507.

¹¹ Since February 18, 2010, the following six additional complaints have been filed in this Court:

- a. *Edwards v. Vilsack*, C.A. No. 10-0465;
- b. *Latham v. Vilsack*, C.A. No. 10-0737;
- c. *Andrews v. Vilsack*, C.A. No. 10-0801;
- d. *Johnson v. Vilsack*, C.A. No. 10-0839;
- e. *Abney v. Vilsack*, C.A. No. 10-1026; and
- f. *Sanders v. Vilsack*, C.A. No. 10-1053.

Together with amendments to the earlier 17 filed complaints, these complaints have added more than 19,000 additional claimants to this case.

¹² The February 18, 2010 Settlement Agreement contained mutual voidability provisions through which Plaintiffs could void the Agreement for a limited period of time if Congress appropriated less than \$1.25 billion in total to pay Section 14012 claims, and the Secretary could void the Agreement if Congress appropriated more than \$1.25 billion in total. *See* Agreement § XI With the passage of the Claims Resolution Act of 2010, which included an appropriation of \$1.15 billion in addition to the \$100

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D. The Claims Resolution Act of 2010

Following the execution of the Settlement Agreement on February 18, 2010, Plaintiffs and their counsel turned their efforts toward advocating for Congress to satisfy the funding contingency of the Settlement, and thus provide additional funding sufficient to afford meaningful relief for *Pigford* claimants with meritorious claims. These extensive advocacy efforts included, *inter alia*, numerous briefings and discussions over many months with Members of Congress and their staffs.

After several attempts to appropriate additional funds fell short, Congress, on November 30, 2010, finally passed the Claims Resolution Act of 2010 (“CRA”) to provide an additional \$1.15 billion to fund this proposed Settlement. This Act, which the President signed into law on December 8, 2010, specifically provides that these additional funds are intended “to carry out the terms of the Settlement Agreement,” and their availability is *expressly conditioned* on the “[S]ettlement [A]greement dated February 18, 2010 (including any modifications agreed to by the parties and approved by the court under that agreement) [...] [being] approved by a court order that is or becomes final and nonappealable.” CRA §§ 201(a)-(b).

The language of the Act makes clear that the additional \$1.15 billion that was appropriated is the maximum amount of funds that will be appropriated for the payment of Section 14012 claims. Specifically, the Act deleted two sections of the Farm Bill: Section 14012(i)(2), which had “authorized to be appropriated such [additional] sums as are necessary to carry out [Section 14012],” and Section 14012(j), which required a report after 75% of the initial

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million appropriated in the 2008 Farm Bill, the total funding for the Settlement reached the \$1.25 billion level, thus mooted Plaintiffs’ voidability right. Accordingly, the clause providing Plaintiffs with the right to void the settlement for insufficient funding has been deleted in the revised Settlement Agreement.

\$100 million had been depleted, presumably so that Congress could determine whether additional appropriations were warranted. CRA §§ 201(f)(4)(B), (f)(5).

The Claims Resolution Act also includes several provisions aimed at safeguarding the claims process against potential fraud. For example, the Act requires, *inter alia*, that: (1) the Neutrals be approved by the Secretary of Agriculture, the Attorney General, and the Court, and be administered “oaths of office” by the Court before adjudicating claims; (2) the Neutrals be authorized under certain conditions to require claimants to provide additional documentation; (3) attorneys filing claims on behalf of claimants certify under oath that the claims they submit “are supported by existing law and the factual contentions have evidentiary support”; and (4) the Government Accountability Office and the USDA Inspector General undertake certain reviews and/or audits relating to the claims process. CRA §§ 201(g)-(h).

III. THE PROPOSED SETTLEMENT

The Settlement proposed here is the product of significant compromises by both sides. The result is an Agreement that carefully balances the Parties’ respective interests in a fair and equitable recovery for deserving claimants, an expeditious process with integrity and safeguards to deter fraud, and a global and final resolution of all Section 14012 claims. The Settlement Agreement, modeled in large part on the *Pigford* Consent Decree, is attached in full as Exhibit 2 to this Motion. For the reasons set forth below, Plaintiffs believe that the proposed Settlement is fair, adequate, and reasonable, and readily satisfies the criteria for preliminary approval and class certification under Rules 23(a) and 23(b)(1)(B) of the Federal Rules of Civil Procedure.

A. The Settlement Class

The proposed Settlement Class is a Rule 23(b)(1)(B), non-opt-out class, defined as:

All individuals: (1) who submitted Late-Filing Requests under Section 5(g) of the *Pigford v. Glickman* Consent Decree on or after October 13, 1999, and on or before June 18, 2008; but (2) who have not obtained a determination on the merits of their discrimination complaints, as defined by Section 1(h) of the Consent Decree.

Agreement § III.A. This Class is ascertainable and readily meets the requirements of Rule 23(a) and 23(b)(1)(B). It also clearly tracks the remedial purpose of Section 14012 of the Farm Bill, which was to “giv[e] a full determination on the merits for each *Pigford* claim previously denied that determination.” Farm Bill § 14012(d). Class Membership under the Settlement will be determined by the Claims Administrator at the outset of the Non-Judicial Claims process.¹³

Agreement § V.B.4.

B. Notice

The proposed Settlement provides for Notice to the Class, and authorizes payment for the dissemination of such Notice, upon Court approval, as an Implementation Cost. Agreement § II.R. Class Counsel have contracted with Kinsella Media, LLC (“Kinsella”) to serve as the Notice Provider, subject to this Court’s approval. A copy of Kinsella’s proposed Notice Program is included as Attachment 3 to Exhibit 5. A complete discussion of the Notice Program is set forth in Section IV.A.6, *infra*.

C. The Non-Judicial Claims Process

1. The Claims Administrator and the Track A and B Neutrals

Similar to the process followed under the *Pigford* Consent Decree, a Claims Administrator will be responsible for the administration of the claims process for this Settlement.

¹³ The criteria used by the Claims Administrator in making this determination are described in Section III.C.3 *infra*.

Subject to this Court's approval, Plaintiffs have selected Epiq Systems, Inc. ("Epiq") (formerly known as Poorman-Douglas Corporation), which previously served as the Facilitator in *Pigford*, to serve as the Claims Administrator. To adjudicate the claims submitted by Class Members under the Settlement Agreement, Plaintiffs have selected The McCammon Group to serve as the Track A Neutral, and Michael Lewis of JAMS to serve as the Track B Neutral. Attached as Exhibits 7, 8, and 9 are the qualifications of Epiq, The McCammon Group, and Michael Lewis respectively, reflecting their experience and suitability for these roles.

To ensure fairness and prevent fraud in the claims process, Congress has required, and the parties have adopted, language in the Settlement Agreement providing that the Neutrals be approved by the Secretary of Agriculture and Attorney General, as well as by the Court. *See* CRA § 201(g)(1)(B)(ii); Agreement §§ II.JJ, II.RR. Plaintiffs have advised the Secretary and the Attorney General that Plaintiffs are proposing The McCammon Group and Mr. Lewis as Neutrals. The Secretary and the Attorney General are in the process of reviewing the qualifications of both proposed Neutrals, but have not yet determined whether to approve their appointments as Track A Neutral and Track B Neutral respectively. If appointed, each Neutral, as contemplated by Section 201(g)(2) of the Claims Resolution Act, will take "an oath administered by the Court that he or she will determine each claim faithfully, fairly, and to the best of his or her ability." Agreement §§ II.JJ, II.RR.

2. Submission of Claims to the Non-Judicial Claims Process

To participate in the Claims Process under the Settlement Agreement, claimants must prepare and submit a Complete Claim Package by the Claim Deadline, which is 180 days from Final Approval of the Settlement. Agreement §§ II.D, V.A.1. A Complete Claim Package includes the following:

- (1) A completed Claim Form . . . , including the claimant's declaration, under penalty of perjury, that each of the statements provided by the claimant is true and correct;
- (2) For a Track A claimant who seeks a Track A Loan Award, a statement that the claimant seeks such an award and an executed Authorization to Disclose Debt Information Form;
- (3) A declaration by the claimant's counsel, whether Class Counsel or Individual Counsel, made under penalty of perjury, that to the best of the attorney's knowledge, information, and belief formed after an inquiry reasonable under the circumstances, the claim is supported by existing law and the factual contentions have evidentiary support. For claimants proceeding without counsel, the declaration on the Claim Form . . . is sufficient to satisfy this requirement;
- (4) For a claimant who is deceased: (a) a death certificate and (b) either (i) proof of legal representation, or (ii) a sworn statement describing why the submitting individual believes he or she will be appointed the legal representative of the claimant's estate; and
- (5) For a claimant unable to submit a claim on his or her own behalf due to a physical or mental limitation: (a) proof of legal representation or (b) a sworn statement describing why the claimant is unable to submit a claim on his or her own behalf and why the submitting individual asserts a right to do so on the claimant's behalf.

Agreement § V.A.1.

Upon receipt, the Claims Administrator will review each Claim Package for "completeness" and "timeliness." If the Claims Administrator determines the submission to be incomplete, it promptly will notify the claimant of the deficiencies and provide 30 days in which to cure; if the Claims Administrator determines the submission to be untimely, it will promptly notify the claimant that his or her claim is denied because it was filed after the Claim Deadline.

Id. §§ V.B.1, V.B.2, V.B.3.

3. Class Membership Determination

Once determined to be timely and complete, each Claim Package will be reviewed by the Claims Administrator to determine whether the claimant is a Class Member. *Id.* § V.B.4. To

qualify as a Class Member, a claimant must demonstrate that he or she meets *both* prongs of the Class definition by a “preponderance of the evidence” standard. *Id.* To satisfy the first prong, a claimant must show that he or she filed a “late-filing request,” seeking to participate in the *Pigford* claims process, on or after October 13, 1999 and on or before June 18, 2008. A “late-filing request” is defined by the Agreement as “a written request to the Court, the *Pigford* Facilitator,¹⁴ the *Pigford* Monitor,¹⁵ the *Pigford* Adjudicator,¹⁶ or the *Pigford* Arbitrator¹⁷ seeking to participate in the claims resolution processes in the *Pigford* Consent Decree.”

Agreement § II.T. Claimants whose names are listed on the *Pigford* Timely 5(g) List, a list maintained by the *Pigford* Facilitator that identifies “Late Filers” – *i.e.*, those claimants who petitioned to file *Pigford* claims on or after October 13, 1999 and on or before September 15, 2000 – are presumed to satisfy this first prong. *Id.* §§ II.BB, V.B.4.a. Claimants whose names do not appear on the Facilitator’s “*Pigford* Timely 5(g) List” must satisfy the Claims Administrator, through independent documentary evidence, that he or she submitted a late-filing request on or after October 13, 1999 and on or before June 18, 2008. *Id.* § V.B.4.a.

The second requirement for Class Membership – that the claimant did not obtain a determination on the merits of his or her *Pigford* claim – is satisfied if the Claims Administrator determines that the claimant is *not* on either of two lists maintained by the *Pigford* Facilitator:

¹⁴ The “*Pigford* Facilitator” is Epiq Systems, Inc., formerly known as Poorman-Douglas Corporation.

¹⁵ The “*Pigford* Monitor” is Randi I. Roth, the independent Monitor appointed by the Court pursuant to Section 12 of the *Pigford* Consent Decree.

¹⁶ The “*Pigford* Adjudicator” is the Adjudicator referenced in Section 1(a) of the *Pigford* Consent Decree.

¹⁷ The “*Pigford* Arbitrator” is the Arbitrator referenced in Section 1(b) of the *Pigford* Consent Decree.

(1) the *Pigford* Participants List, which identifies both those individuals who filed timely *Pigford* claims and those whose late-filing requests to participate were granted in *Pigford*; or (2) the *Pigford* Opt-Out List, which identifies those individuals who opted out of the *Pigford* settlement and the remedial process set out in the Consent Decree. *Id.* §§ II.Z, II.AA, V.B.4.b. Also excluded from the Class under this prong would be any claimant who “has obtained a judgment from a judicial or administrative forum on the basis of the race discrimination claim that provides the basis of the [c]laimant’s discrimination complaint.” *Id.* § V.B.4.b.¹⁸

Claimants that the Claims Administrator determines not to be Class Members will be informed by the Claims Administrator of that determination, which the Agreement provides will be final and unreviewable. *Id.* § V.B.5. Claimants who meet the requirements for Class Membership will have their claims forwarded by the Claims Administrator to an appropriate Neutral for consideration on the merits. *Id.* §§ V.B.8, V.B.9.

4. Merits Determination

Claimants under this Settlement must elect on their Claim Form to proceed under either Track A or Track B. A claimant’s election to proceed under Track A is final and irreversible; claimants who elect Track B may change to Track A up to 30 days after notice by the Claims Administrator of the total number of Track B claimants, which will be provided shortly after the Claim Deadline.¹⁹ *Id.* §§ V.A.6, V.B.7. Under the terms of the Agreement, USDA will not oppose the claims. *Id.* § V.A.9.

¹⁸ Upon request by a claimant, or any individual counsel retained by a claimant, Class Counsel will verify a Claimant’s presence on the *Pigford* Timely 5(g) List, the *Pigford* Participants List, or the *Pigford* Opt-Out List. *Id.* § VIII.A.4.

¹⁹ Track B claimants are offered the opportunity to change from Track B to Track A because the aggregate sum of Track B Awards is capped at \$100 million. *Id.* § II.PP. Because of this Track B Cap, there is the possibility that a successful Track B claimant’s award would be reduced if the total aggregate of Track B awards exceeds \$100 million. *Id.* § V.E.5.a.; Appx. 1, § I.A.1. The opportunity to change to Track A once the total number of Track B claimants is known will allow a Track B claimant to make an

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Track A claims will be reviewed by the Track A Neutral to determine whether the claimant has established, by substantial evidence, that:

- (1) The Class Member is an African American who farmed, or attempted to farm, between January 1, 1981, and December 31, 1996;
- (2) The Class Member owned or leased, or attempted to own or lease, farm land;
- (3) The Class Member applied, or constructively applied, for a specific farm credit transaction(s) or non-credit benefit(s) at a USDA office between January 1, 1981, and December 31, 1996;
- (4) For claimants who applied – *i.e.*, not constructively applied – for a specific farm credit transaction(s) or non-credit benefit(s), the farm loan(s) or non-credit benefit(s) for which the Class Member applied was denied, provided late, approved for a lesser amount than requested, encumbered by a restrictive condition(s), or USDA failed to provide an appropriate loan service(s);
- (5) USDA's treatment of the loan or non-credit benefit application(s) or constructive application(s) led to economic damage to the Class Member; and
- (6) The Class Member complained of discrimination to an official of the United States Government on or before July 1, 1997, regarding USDA's treatment of him or her in response to the application(s).

Id. § V.C.1.²⁰ Successful claimants are entitled to a Track A Award, which, for credit claims, includes (a) up to a \$50,000 liquidated damages award, (b) a payment in recognition of the debt outstanding on USDA loans that form the basis of the *Pigford* claim,²¹ and (c) a tax payment worth 25% of the liquidated damages award and 25% of the principal amount of the loan award.

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informed choice about whether and to what extent the \$100 million limitation could affect his or her award.

²⁰ Under the Agreement, claimants may meet this burden with their sworn statements in the Claim Form if, upon full review by the Track A Neutral of the supporting details, such statements are determined to be credible.

²¹ To facilitate this calculation, USDA is required, upon authorization by the claimant, to provide information regarding the payoff amounts and balances for each Claimant's outstanding loans owed to USDA. Agreement § V.B.6.

Id. §§ II.KK, II.LL, II.MM, II.NN. For non-credit claims, a Track A Award is up to a \$3,000 liquidated damages award. *Id.* § II.LL.

Track B claimants, who may proceed *only* on credit claims that involve actual, not constructive, application for USDA loans, must establish the same facts as Track A claimants, but by the higher “preponderance of the evidence” standard of proof. *Id.* § V.D.1. In addition, Track B claimants must demonstrate that “the treatment of [the claimant’s] loan application(s) by USDA was less favorable than [that provided to] a specifically identified, similarly situated white farmer(s).” *Id.* § V.D.1.e. Another important distinction between Track B claims and Track A claims is that, with the exception of the “similarly-situated white farmer” requirement (Section V.D.1.e) and the “complain[t] . . . to an official of the United States Government” requirement (Section V.D.1.g), both of which may be proven through non-familial sworn statements, the elements of a Track B claim must be proved through “independent documentary evidence admissible under the Federal Rules of Evidence.”²² *Id.* § V.D.2. This higher evidentiary standard is intended to impose greater rigor on a process that could result in a monetary award of up to \$250,000. *Id.* § II.OO. Track B claimants may retain, at their own expense, economic experts to assist them in establishing their actual damages through written reports submitted to the Track B Neutral. *Id.* § V.D.2.c. Individual Track B awards are capped at \$250,000, and the aggregate of all Track B Awards is capped at \$100 million, so that the available Settlement funds are not disproportionately diluted by the Track B claimants. *Id.* § II.PP.²³

²² Section V.D.2.b of the Agreement identifies certain documents that are deemed admissible even if they do not meet all of the requirements of the Federal Rules of Evidence.

²³ Because of this cap, individual Track B Awards will be proportionately reduced if the total of all Track B Awards exceeds \$100 million. *Id.* § V.E.5.a; Appx. 1 § I.A.1.

Two other aspects of the claims determination process also warrant emphasis: (1) to avoid the cost and delay of protracted litigation, the Settlement provides that the determinations of both the Claims Administrator and the Neutrals are final and non-appealable, *id.* §§ V.A.8, V.B.2, V.B.3, V.B.5; and (2) so that claimants do not have to wait until the completion of the entire claims process to learn the status of their claim, each claimant will be notified regarding the decision on his or her claim within 30 days of either: (a) the Claims Administrator's determination for claimants found not to be eligible to participate in the claims process; or (b) the Claims Administrator's receipt of a claim determination by either the Track A or the Track B Neutral. *Id.* §§ V.B.3, V.B.5, V.E.1, V.E.2. However, because the exact amount of each successful Class Member's award will not be known until all claim determinations are completed, the "rolling notification" that Class Members with prevailing claims will receive will be an interim notification without any award figure, *see id.* § V.E.2, which will be followed by a later notification of the amount of the Class Member's award after all claim determinations have been completed. *Id.* § V.E.8.

D. Payments to Class Members

Once all of the Track A and Track B Awards have been determined by the Neutrals, the actual payments to successful Class Members will be calculated by the Claims Administrator based on the total amount of funds available. The funds "available" to pay meritorious claims are the \$1.25 billion appropriated by Congress (in 2008 and 2010 collectively), less the amounts necessary to implement the Settlement,²⁴ the amounts approved by the Court for Ombudsman

²⁴ The Implementation Costs payable from the Settlement funds are "the Court-approved administrative costs associated with implementing this Agreement, including the fees and costs of the Track A and Track B Neutrals, the Claims Administrator, costs incurred under Section VIII.A.3, and the costs necessary to provide notice of this Agreement to the Class," and are capped at \$35 million. Agreement §§ II.I, II.R. The Agreement also authorizes the payment from the Settlement funds, upon application to the Court, of "\$3,500,000 . . . in reasonable additional fees and costs above the Cost Cap

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Costs, and the amount approved by the Court for Common Benefit Fees to compensate Class Counsel. *Id.* Appx. 1 § I.A.2.

If the amount available to pay meritorious claims is sufficient to pay all Track A and Track B Awards as determined by the Neutrals (after application of the \$100 million cap on aggregate Track B Awards),²⁵ all claims will be paid in full. *Id.* Appx. 1 § I.A.3. If, however, the amount available to pay meritorious claims is not sufficient to pay all Track A and Track B Awards in full (after application of the \$100 million cap on aggregate Track B Awards), the Agreement calls for an initial 30% reduction in the awards made to the “Late-Late Filers” – those claimants whose late-filing requests to participate in the *Pigford* process were filed *after* September 15, 2000. *See id.* § V.E.5.b, Appx. 1 § I.A.4.a. This potential reduction in the awards for “Late-Late Filers” represents a compromise negotiated between counsel for “Late Filers” and counsel for “Late-Late Filers” as a result of the ambiguity of Section 14012 of the Farm Bill with respect to whether Congress intended Late-Late Filers to be included within the scope of “late-filing plaintiffs” granted a cause of action by that provision. Both groups of claimants recognized that this ambiguity gave rise to a significant litigation risk borne by each – *i.e.*, if this Court were to construe Section 14012 to *include* Late-Late Filers on the same terms as Late Filers, the pool of available funds for Late Filers would be significantly reduced; by contrast, if this Court were to construe Section 14012 to *exclude* Late-Late Filers altogether, these claimants would receive no awards at all.

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incurred by the Track A Neutrals, the Track B Neutrals, and/or the Claims Administrator arising out of the reporting requirements and/or the audit provisions of Section 201(h) of [the Claims Resolution Act].” *Id.* at § II.I.

²⁵ *Id.* §§ II.PP, V.E.5.a., Appx. 1 § I.A.1.

Finally, if there *is still not* enough money to pay all successful claimants after a 30% reduction for Late-Late Filers, the Agreement provides for proportional reductions of the awards to all successful claimants by the Claims Administrator. *Id.* § V.E.5.c, Appx. 1 § I.A.4.a.(1). If there *is* enough money to pay all successful Late Filers in full after the Late-Late Filer reduction, any leftover funds would be reallocated, proportionally, back to the Late-Late Filers with meritorious claims. *Id.* Appx. 1 § I.A.4.a.(2). These payment calculation provisions ensure that all similarly-situated claimants – Late Filers and Late-Late Filers – will be treated equally.

Once the Claims Administrator has calculated the final awards for all claimants taking into account the amount of available funds, the Secretary is required to direct the U.S. Treasury to transfer funds to a Designated Account at a Court-approved Designated Bank identified by Class Counsel. *Id.* §§ IV.C, IV.H. Only as much of the Settlement funds as are necessary to pay successful claims in full – plus Implementation Costs, Ombudsman Costs, and Common Benefit Fees – will be transferred into the Designated Account. *Id.* § IV.H. In other words, any of the \$1.25 billion not needed to pay successful claimants, or to pay for implementation of the Settlement and related costs and fees, will remain in the U.S. Treasury.

Once the funds are deposited into the Designated Account for payment of successful claims, the Claims Administrator will send to each successful claimant a check in the amount of his or her final Track A liquidated damages award or final Track B Award. *Id.* § V.E.8.a. All payments to Track A claimants in recognition of outstanding debt or Track A tax payments will be made to the USDA and the IRS, respectively, on the claimant's behalf. *Id.* § V.E.8.b. Any awards to estate claimants or to claimants who are unable to file claims on their own behalf due to physical or mental incapacity will be held in escrow by Class Counsel for up to one year after notification of the award, until a legal representative of the claimant can be appointed by a court to receive the award. *Id.* §§ V.A.3, V.A.4, V.E.12. Any check that is sent to a claimant and

remains uncashed 181 days after its issuance will be voided. After all funds have been disbursed, any funds remaining in the Designated Account, on motion by Class Counsel, will be distributed to *cy pres* beneficiaries designated by this Court under the terms of the Settlement.

Id. §§ V.E.11, V.E.13.

E. Representation by Counsel in the Claims Process and Fees

As is standard in class action settlements, this Settlement contemplates that the Court will appoint Class Counsel to oversee the administration of the Settlement and represent Class Members in prosecuting their claims. In particular, given the complexity of this case and the potential for widespread misinformation regarding this Settlement, the Parties believe it essential to provide claimants with access to experienced and informed counsel to assist them in completing and submitting their Claim Packages within the 180-day time period established by the Settlement Agreement. Accordingly, under the Settlement, Class Counsel would be available to assist all claimants proceeding under Track A, at no additional charge. *Id.* § VIII.A.2. Class Counsel would be compensated for these services exclusively through the Court's award of Common Benefit Fees. Recognizing that some claimants may not want to utilize the services of Class Counsel and may prefer to proceed *pro se*, or with counsel of their own choosing, the Agreement also provides a mechanism for any individual lawyer, not Class Counsel, to present a claim on behalf of a claimant and to be paid a reasonable fee for that service. Specifically, an attorney retained to represent a claimant in presenting a Track A claim would be entitled to receive a contingent fee of up to 2% of the Track A claimant's final award. Counsel retained to represent Track B claimants – whether Class Counsel or otherwise – may receive up to 8% of the successful claimant's Track B Award, in recognition of additional risk and effort involved in preparing Track B claims for submission.

For all work performed by Class Counsel both before and after the Settlement, and for their preparation and submission of Track A claims for Class Members, the Settlement contemplates compensation through Common Benefit Fees of between 4.1% to 7.4% of the Fee Base,²⁶ minus the aggregate amount of any Track B Fees paid to non-Class Counsel. The actual amount of these Common Benefit Fees will be determined by the Court upon submission of a fee petition by Class Counsel, which will be filed no later than 60 days after the Claim Deadline. *Id.* § X.B, X.E. Common Benefit Fees will be distributed to certain Class Counsel pursuant to a Counsel Participation Agreement for signatories to that Agreement, and to non-signatory attorneys who may be appointed as Class Counsel for their “reasonable and compensable work on behalf of the Class.” *Id.* § X.E.

F. Transparency in the Claims Process

This Court, throughout this litigation, has emphasized the importance of transparency in the claims process regarding potential recoveries available to putative Class Members. The fact that more than 40,000 Plaintiffs already have filed claims in this case, the expected success rate for their claims, and the limited funding available to pay successful claims all make it highly likely that the \$1.25 billion appropriated by Congress will be insufficient to pay all meritorious claims at the full funding levels contemplated by the Farm Bill. Based on the payment process described above, it is therefore likely that awards to successful claimants will be proportionally reduced.

To minimize the risks of misunderstanding and disappointment on the part of Class Members, Plaintiffs have taken steps in the Settlement Agreement and related Notice materials to make clear that successful claimants are unlikely to receive the full amount of the awards they

²⁶ The Fee Base is calculated as the total amount of appropriated funds (\$1.25 billion) minus a good faith estimate of Implementation Costs to implement the Settlement (\$22.5 million). *Id.* § II.O.

would have received in the *Pigford* settlement. In no fewer than six places in the Settlement Agreement, and everywhere the amount of awards is mentioned, Plaintiffs have been careful to highlight in italics the following phrase, or some variation thereof: “[a]wards are subject to reduction based on the amount of available funds and the number of meritorious claims.” Agreement §§ II.KK, II.LL, II.MM, II.NN, II.OO, V. A plain-English summary of the payment calculation subsection of the Settlement also has been provided to explain potential reductions in an easily readable and understandable format. *Id.* § V.E.5. Additionally, an Appendix with “examples of claim calculations,” designed to illustrate the likely payouts per claimant based on varying estimates of the number of successful claimants, has been attached to the Agreement. *See id.* Appx. 1a. Finally, Plaintiffs have included the following language in the proposed Long Form Notice under the section entitled “How Much Will I Be Paid?”:

It is important to note that Congress has approved a limited amount of money for this Settlement. Additionally, there is an overall limit of \$100 million to pay Track B claims. Therefore, the cash payments that Class Members will receive could be significantly less than \$50,000 for successful Track A claims, and significantly less than \$250,000 for successful Track B claims.

See Ex. 5, Att. 3, Appx. NP-5, Long Form Notice at 6. Plaintiffs believe that this repeated message will go a long way toward minimizing the risk of Class Members relying on the receipt of payments higher than they actually receive.

G. Implementation Costs

The Agreement provides for the payment of up to \$35 million in Implementation Costs from the \$1.25 billion Settlement fund. These costs are defined as:

The Court-approved administrative costs associated with implementing this Agreement, including the fees and costs of the Track A and Track B Neutrals, the Claims Administrator, costs incurred under Section VIII.A.3, and the costs necessary to provide notice of this Agreement to the Class.²⁷

²⁷ The definition of Implementation Costs expressly *excludes* “(1) attorneys’ fees, costs, and expenses, (2) the costs and expenses associated with preparing and/or submitting claims on behalf of

Agreement § II.R. Mindful of the critical importance of providing effective notice to putative Class Members and putting in place a claims process that is both fair and efficient and also has appropriate procedural safeguards to ensure the integrity of the Settlement funds, the Parties sought to balance the costs of such notice and process with the goal of preserving as much of the funds as possible for the payment of successful claims. Unlike the *Pigford* Settlement, where there were not capped appropriations and where the costs of the settlement implementation were paid by USDA in addition to the funds paid to successful claimants, all costs of implementing this Settlement will be paid from the same limited fund appropriated by Congress to pay meritorious claims. Thus, any money paid for Implementation Costs necessarily will reduce the amount available to pay awards to successful claimants. To ensure that the costs of implementing this Settlement do not have an unanticipated adverse effect on the amount of funds available to pay claimants, the Parties agreed to a Cost Cap for Implementation Costs of \$35 million.²⁸ *Id.* § II.I. Plaintiffs are confident that \$35 million will be sufficient to provide sufficient notice to the putative Class and allow the retention of a qualified Claims Administrator and Neutrals, while at the same time protecting claimants with meritorious claims against the risk of uncontrolled Implementation Costs.²⁹

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individual Claimants, (3) the fees, expenses, and costs of the Ombudsman (“Ombudsman Costs”), and (4) costs and expenses incurred by Class Counsel in the performance of their duties under this Agreement.” Agreement § II.R.

²⁸ Class Counsel are permitted to seek payment of up to \$3.5 million beyond this Cost Cap, if necessary, to pay the Claims Administrator’s and the Track A and B Neutrals’ reasonable fees and costs associated with compliance with the reporting requirements and/or audit provisions contained in Section 201(h) of the Claims Resolution Act. *Id.* § II.I.

²⁹ To ensure that the Implementation Costs will not exceed \$35 million, the undersigned counsel are negotiating agreements with the Notice Provider, the Claims Administrator, the Track A Neutral, and the Track B Neutral that will contain “not to exceed” cost caps. The total of these costs caps is expected to be less than \$16 million.

The Settlement provides that up to \$20 million of these Implementation Costs – \$10 million or less after preliminary approval, and up to an additional \$10 million after final approval – will be available, upon approval of the Court, to Class Counsel before the remaining Settlement funds are disbursed to pay interim Implementation Costs. This provision will allow Class Counsel to pay for the Notice necessary under the Settlement Agreement and for the retention of the Claims Administrator and Neutrals as the services are provided.³⁰ *Id.* §§ IV.C-F.

H. Continuing Role of the Court and Ombudsman

Under the terms of the Settlement, the Court retains continuing jurisdiction “to oversee and enforce [the Settlement Agreement] until 200 days after the date of the Final Accounting” – *i.e.*, after all claim determinations and payments have been completed. *Id.* § XVI; *see also id.* § IV.A. In exercise of this authority, the Court is expressly tasked with approving all of the key players who are necessary for the implementation of the Settlement – including Class Counsel, the Claims Administrator, the Neutrals, and the Ombudsman – as well as with approving of all payments made under the Settlement, whether to claimants, vendors, or counsel. *See Id.* §§ II.F, II.JJ, II.RR, IV.C-H, VI.A, IX.A.3, IX.A.4, IX.A.7. The Parties contemplate the active involvement of the Court to ensure that the Settlement is administered fairly, and that the claims determination process operates fairly, efficiently and with integrity.

To assist in this oversight, the Agreement provides for the appointment by this Court of an independent Ombudsman, to serve as the Court’s “eyes and ears” throughout the implementation of the Settlement.³¹ Agreement § VI.A. The Ombudsman’s role is to:

³⁰ To the extent that this full \$20 million authorized for initial Implementation Costs is not required for this purpose, the Settlement authorizes Class Counsel to move the Court for an interim payment of attorneys’ fees, provided that the amount requested, together with the initial Implementation Costs, do not exceed \$20 million. *Id.* §§ IV.E, IV.F.

³¹ Federal courts have “inherent equitable power to appoint a person, whatever be his title, to assist [them] in administering a remedy,” *Ruiz v. Estelle*, 679 F.2d 1115, 1161 (5th Cir. 1982) *amended in part*, (continued . . .)

1. Be available to Class Members and the public through a toll-free telephone number in order to address concerns about implementation of this Settlement Agreement;
2. Attempt to address any concerns or questions that any Class Member may have with respect to the implementation of this Settlement Agreement;
3. Make periodic written reports (not less than every six months) to the Court, the Secretary, and Class Counsel on the good faith implementation of this Settlement Agreement;
4. Have access to the records maintained by the Claims Administrator and the Neutrals involved in the claims process; and
5. Make recommendations to the Court relating to the implementation of this Settlement Agreement.

Id. § VI.B.³² The Ombudsman will report directly to the Court and serve for as long as the Court has continuing jurisdiction to enforce the Settlement. *Id.* § VI.A. Unlike the *Pigford* Monitor, however, the Ombudsman here will not have the power to alter in any way substantive claims decisions made by the Neutrals or the Claims Administrator; rather the Ombudsman will serve to monitor the claims process, and propose changes to assist the process where appropriate. *Id.*

§ VI.C. Fees, costs, and expenses of the Ombudsman will be paid out of the Settlement funds separately from Implementation Costs and are not subject to the Cost Cap; all such expenditures by the Ombudsman will be subject to approval by the Court. *Id.* §§ II.V, IV.G.

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reh'g denied in part on other ground, 688 F.2d 266 (5th Cir. 1982); *see also* *Schwimmer v. United States*, 232 F.2d 855, 865 (8th Cir. 1956) (quoting *In re Peterson*, 253 U.S. 300, 312 (1920)). Regardless of the title, courts have sanctioned the use of court-appointed agents to monitor and report on compliance with a settlement agreement, particularly when the appointment has been agreed to by the parties. *Ruiz*, 679 F.2d at 1161 n.240; *Cullen v. Whitman Medical Corp.*, 197 F.R.D. 136, 143 (E.D. Pa. 2000); *Berry v. Sch. Dist. of the City of Benton Harbor*, 184 F.R.D. 93, 101-03 (W.D. Mich. 1998).

³² Included as Exhibits 10 and 11 are a draft Order appointing the Ombudsman and a draft Order of Reference detailing the Ombudsman's authority and duties.

I. Accelerations and Foreclosures

With limited exceptions, the Settlement prohibits the Secretary from foreclosing on any loans originating between January 1, 1981 and December 31, 1996 that are held by putative Class Members who have filed claims until the earlier of: (1) the date the Claims Administrator determines that the claimant is not a Class Member or submitted his or her Claim Package after the Claim Deadline; or (2) the Track A Neutral or Track B Neutral determines the claimant's claim is not meritorious. *Id.* § VII.

IV. ARGUMENT

A. The Proposed Settlement is Fair, Reasonable, and Adequate and Should be Preliminarily Approved by the Court Under Rule 23.

The Settlement presented to the Court today is the product of nearly three years of litigation and intensive negotiation between Plaintiffs and the USDA, begun shortly after passage of the 2008 Farm Bill. As this Court is well aware, however, the issues resolved by this Settlement extend much farther back than 2008. The Settlement proposed here seeks to address the sense of injustice felt by the tens of thousands of African Americans who, over the last decade, were barred from participation in the *Pigford* remedial process merely because their petitions to file claims were submitted late under the *Pigford* Consent Decree. If approved, this Settlement will provide an opportunity for *Pigford* claimants who, in many cases, have waited nearly 30 years for relief, to finally have their discrimination claims determined on the merits.

In its ruling in *Pigford*, this Court rightly noted that “[n]othing can completely undo the discrimination of the past or restore lost land or lost opportunities to . . . all of the . . . African American farmers” who suffered discrimination. 185 F.R.D. at 112. “The [*Pigford*] Consent Decree represent[ed] a significant first step.” *Id.* at 113. The present Settlement provides the final step in remedying the alleged discrimination suffered by these farmers. The proposed Agreement would provide relief for all such farmers and prospective farmers denied participation

in the *Pigford* process due to “late-filed” petitions, and ensure that they are compensated for the discrimination they suffered.

As demonstrated below, the Settlement that is the subject of this Motion is fair, reasonable, and adequate and should be preliminarily approved by the Court. Indeed, Congress itself recognized this fact when it expressly conditioned the appropriation of \$1.15 billion of the \$1.25 billion total funding for Section 14012 claims on the approval of this Settlement. Plaintiffs therefore urge the Court to preliminarily approve the Settlement so that putative members of the Settlement Class may be notified of, and comment upon, the proposed Settlement, and so that a hearing date can promptly be set for the Settlement to be finally approved and implemented.

1. Legal Standard for Preliminary Approval

Judicial approval of a class settlement under Rule 23(e) involves a two-step process. Manual for Complex Litigation (Fourth), §§ 13.14, 21.6632 (2004). First, “the proposal [is reviewed] preliminarily to determine whether it is sufficient to warrant public notice and a hearing.” *Id.* If the court finds that a proposed class settlement is “the product of serious, informed, non-collusive negotiations, has no obvious deficiencies, . . . and falls within the range of possible [judicial] approval,” the court should grant preliminary approval and schedule a formal fairness hearing and direct notice to the class. *In re Vitamins Antitrust Litig.*, Misc. No. 99-197, 1999 U.S. Dist. LEXIS 21963, at *29 (D.D.C. Nov. 23, 1999) (citing *In re Shell Oil Refinery*, 155 F.R.D. 552, 555 (E.D. La. 1993)); *Blackman v. Dist. of Columbia*, 454 F. Supp. 2d 1, 8 (D.D.C. 2006) (“A presumption of fairness, adequacy, and reasonableness may attach to a class settlement reached in arm's length negotiations between experienced, capable counsel after meaningful discovery.”) (internal citations omitted); Manual for Complex Litigation (Fourth), at § 21.633.

The second step of the approval process follows preliminary approval and notice to the putative class with an opportunity for comment and objection. It is during this second stage that the court is required to undertake a probing analysis of the factors set out in Rule 23(e) governing the approval of class action settlements and to evaluate the actual merits of the settlement. *Equal Rights Center v. Wash. Metro. Area Transit Auth.*, 573 F. Supp. 2d 205, 211 (D.D.C. 2008); Manual for Complex Litigation (Fourth), §§ 21.634-635.³³

Although the present Motion seeks only preliminary approval of the Settlement, Plaintiffs respectfully submit that the Settlement is manifestly fair and reasonable and adequate to the class as a whole and therefore merits approval at this time, even were the Court at this stage to apply the more probing Rule 23(e) test for final approval.³⁴ Accordingly, this Settlement should be preliminarily approved, public notice issued, and a hearing scheduled so that the Agreement negotiated by the Parties regarding these Section 14012 claims can be implemented.

2. The Settlement Reflects a Fair and Reasonable Compromise of the Parties' Positions.

As this Court observed in *Blackman*, “[b]y far the most important factor [in assessing the fairness of a settlement] is a comparison of the terms of the proposed settlement with the likely

³³ Under Rule 23(e), final approval of a class settlement is guided by consideration of the following factors:

- a) the terms of the settlement in relation to the strength of plaintiffs’ and defendants’ arguments; b) the existence of arms’ length negotiations; c) the status of the litigation at the time of the [proposed settlement agreement]; d) the representations of experienced counsel; and e) the class reaction to the [proposed settlement agreement].

Equal Rights Center, 573 F. Supp. 2d at 211; *Vista Healthplan, Inc. v. Warner Holdings Co. III, Ltd.*, 246 F.R.D. 349, 360 (D.D.C. 2007); *In re Vitamins Antitrust Litig.*, 305 F. Supp. 2d 100, 104 (D.D.C. 2004).

³⁴ Even at the final approval stage, the Court’s “discretion . . . to reject a settlement is restrained by the ‘principle of preference’ that encourages settlements.” *Pigford*, 185 F.R.D. at 103; *see also Osher v. SCA Realty*, 945 F. Supp. 298, 304 (D.D.C. 1996) (“[C]ourts assume a limited role when reviewing a proposed class action settlement, . . . [and] should not substitute their judgment for that of counsel who negotiated the settlement.”) (internal citations omitted).

recovery that plaintiffs would realize if they were successful at trial.” *Blackman*, 454 F. Supp. 2d at 8. Even though the Settlement before the Court is the product of compromise by both Parties, it is indisputable here that the Class Members, as a group, will receive larger awards under the Settlement – and, through a more efficient and expeditious process – than had they pursued their claims individually at trial. This is due largely to the structure, and funding limitations, of Section 14012 of the Farm Bill.

First, absent the Settlement, Plaintiffs would face years of individual adjudications by this Court – and the attendant delay in recovering awards where successful – since no funds were allocated by Congress for resolving individual claims through an alternative or other extrajudicial claims determination process. The Settlement establishes a far more efficient and expeditious means of resolving the claims of the members of the putative Class.

Second, unlike the *Pigford* case, where successful claims were paid without limitation from the Judgment Fund, Congress, in Section 14012 of the 2008 Farm Bill, designated just \$100 million in the Commodity Credit Corporation as the sole source of funding to pay successful claims under that provision. In enacting the Claims Resolution Act of 2010 last year, Congress appropriated an additional \$1.15 billion for Section 14012 claims, but it expressly conditioned the access to these funds on the Court’s approval of the Settlement Agreement currently before the Court.³⁵ See CRA § 201(b) (“[i]f th[is] Settlement Agreement is not approved . . . , the \$100,000,000 of funds of the Commodity Credit Corporation made available by Section 14012(i) of the [Farm Bill] shall be the *sole* funding available for *Pigford* claims.”) (emphasis added). Thus, absent this Settlement (and its approval by the Court), there will be only \$100,000,000

³⁵ Congress expressly defined “Settlement Agreement” in the Claims Resolution Act as “the settlement dated February 18, 2010 (including any modifications agreed to by the parties and approved by the court under that agreement) between certain plaintiffs, by and through their counsel, and the Secretary of Agriculture” CRA § 201(a)(1).

available for the payment of Section 14012 claims. And, if that were the case, there would only be enough funds to pay approximately 1,600 of the more than 40,000 claimants who already have filed Section 14012 claims in this Court the *minimum* award provided in *Pigford* (\$50,000 liquidated damages payment, plus \$12,500 tax award). Or, stated differently, if only *half* of the 40,000 current claimants (*i.e.*, 20,000) are successful Track A claimants, absent the Settlement, these successful claimants would receive \$5,000 or less each.³⁶ Simply put, absent approval of this Settlement, only 8% of the total funds authorized by Congress for the payment of Section 14012 claims would be available to members of the putative Class.

Third, Plaintiffs would face significant practical and evidentiary hurdles in proving their claims at trial in the absence of this Settlement. Most significantly, the claims at issue in this case date back as many as 30 years. The passage of so much time, combined with inconsistent record-keeping by Class Members during the Class Period, will give rise to significant issues of evidentiary staleness, and a high potential risk of unavailability of documents needed to prove individual claims. The Settlement mitigates these issues substantially by providing for streamlined non-judicial claims determination processes, one of which (Track A) would permit Plaintiffs to prevail on the basis of sworn attestations in the Claim Form, without the requirement of supporting documentation. Moreover, unlike in a judicial process, the Department will not file any responses to the claims presented in the non-judicial claims processes proposed in the Settlement Agreement.

³⁶ Both of these calculations exclude any recovery for debt forgiveness which is contemplated by Section 14012 and would be available under the Settlement.

Fourth, among the Plaintiffs, the Settlement effects a fair and reasonable compromise of the potentially conflicting interests of the “Late Filers”³⁷ and the “Late-Late Filers”³⁸ with respect to their rights, or lack thereof, under Section 14012. While it is clear that Late Filers fall within the scope of Section 14012, there is, as noted above, uncertainty as to whether Congress intended Late-Late Filers to have a comparable right to relief under Section 14012.³⁹ With due regard for the possibility that Late-Late Filers would be found to have no right at all to relief under Section 14012, counsel for Late Filers and counsel for Late-Late Filers negotiated a level of participation in the Settlement for Late-Late Filers that compensates meritorious claims filed by Late-Late Filers at a potentially discounted rate (depending on the amount of available funds) from those filed by Late Filers. This is a reasonable compromise that fairly accounts for the risk that the Court could find that Late-Late Filers’ claims are outside the scope of Section 14012.

³⁷ Late Filers are those claimants who (1) filed a late-filing request to participate in *Pigford* after the October 12, 1999 filing deadline but on or before the September 15, 2000 late-filing deadline, and (2) were denied participation under the *Pigford* Consent Decree because they could not demonstrate that their late filing was due to “extraordinary circumstances beyond [their] control.” Consent Decree, 5(g).

³⁸ Late-Late Filers are claimants who filed late-filing requests in *Pigford* after the September 15, 2000 deadline, but on or before the June 18, 2008 passage of the Farm Bill.

³⁹ Section 14012(b) of the Farm Bill states that “[a]ny *Pigford* claimant who has not previously obtained a determination on the merits of a *Pigford* claim may” bring a civil action in the United States District Court for the District of Columbia. A “*Pigford* claimant” is defined by Section 14012(a)(4) of the Farm Bill as “an individual who previously submitted a late-filing request under section 5(g) of the [C]onsent [D]ecree.” Section 5(g) of the *Pigford* Consent Decree, dated April 14, 1999, permit Claimants who missed the October 12, 1999 deadline for participation in the *Pigford* remedial process to “petition the Court” for late consideration of their claim, but provided that such petitions would be granted “only where the claimant demonstrate[d] that his failure to submit a timely claim was due to extraordinary circumstances beyond his control.” While Paragraph 5(g) itself contained no deadline for submitting a late-filing petition, this Court subsequently set a September 15, 2000 deadline (*see* Ex. 6, Order of July 14, 2000, ¶ 2). Thus, there is an open question as to whether the “previously submitted a late-filing request under Section 5(g) of the consent decree” language in Section 14012 was intended to reference the September 15, 2000 deadline for Section 5(g) late-filing requests set by this Court or “previous[]” to the date of the enactment of Section 14012. If the former, only Late Filers would be entitled to seek relief under Section 14012; if the latter, then both Late Filers and Late-Late Filers would be covered by Section 14012.

Fifth, absent this Settlement and the additional funding it would bring, Plaintiffs would be required to pay counsel who assist them in filing Section 14012 claims out of their individual recoveries or out of their own funds. Unlike the *Pigford* litigation, where the claims were brought pursuant to the Equal Credit Opportunity Act, 15 U.S.C. § 1691(e), and prevailing plaintiffs were entitled to recover attorneys' fees, Section 14012 contains no comparable fee-shifting provision. Instead, Section 14012 claimants would have to pay counsel according to individually negotiated fee agreements.⁴⁰ If this Settlement is approved, however, all Class Members will be provided the services of Class Counsel without the need for any out-of-pocket payment. The Settlement, and the additional funding afforded by Congress upon approval by this Court, makes possible the Common Benefit Fees set aside by the Parties to pay attorneys who provide legal assistance to Plaintiff Class Members – a clear benefit to Plaintiffs which they would not “realize [even] if they were successful at trial” in this case. *Blackman*, 454 F. Supp. 2d at 8.

Absent the Settlement, the Defendant also would face significant costs and administrative burdens – namely the cost and time associated with defending Plaintiffs' claims and the burden of producing USDA loan and non-credit benefit files to tens of thousands of claimants.⁴¹ The proposed Settlement benefits the Defendant by avoiding these costs and burdens, by capping the

⁴⁰ Although this Court made clear that it would review all contingency agreements in an effort to protect the integrity of the Section 14012 process and prevent exploitation of vulnerable farmers, even the 20% contingency to which all counsel subsequently agreed as a fee cap is substantially higher than the 4.1 to 7.4% Common Benefit Fee range to which the parties have agreed in the proposed Settlement Agreement § X.B.

⁴¹ Although Congress, in the Claims Resolution Act, eliminated the requirement in § 14012(e) of the Farm Bill that USDA provide certain data on similarly situated white farmers to Section 14012 Claimants, absent settlement, Plaintiffs nevertheless could have sought this information through discovery.

Defendant's potential liability, and by providing finality to the process of resolving claims arising out of the Department's discriminatory farm credit policies and practices.

Recognizing the competing goals and priorities of all stakeholders in this litigation, the Settlement strikes a careful balance that provides meaningful relief to those members of the Class with meritorious claims, incorporates appropriate rigor in the claims process, minimizes the costly administrative burden on the USDA, and provides finality with respect to the remaining *Pigford* claims. Plaintiffs submit that this Settlement reflects a fair resolution of the Parties' respective litigation positions, and represents the best – and, likely, *only* – opportunity for the Class to obtain meaningful relief.

3. The Settlement Safeguards Against the Risk of Fraud in the Claims Process.

The provisions of the Settlement Agreement that seek to safeguard against the risk of fraud in the claims process also demonstrate the fairness and reasonableness of this Settlement. These safeguards in the claims process are intended to ensure that awards are provided only to those claimants who are Class Members and who present claims that satisfy the requisite standards of proof. Plaintiffs are well aware of the intense public scrutiny regarding this Settlement and the appropriation of \$1.25 billion in public funding to implement it. A chief aim in crafting the Settlement, therefore, was to establish a claims process that would compensate meritorious claims, while also deterring both the filing of frivolous or fraudulent claims and potential abuses by unscrupulous individuals acting on behalf of claimants. Accordingly, this Agreement contains numerous provisions designed to protect the integrity of the claims process and to serve as checks on both individual claims and the process as a whole. These negotiated measures in the Agreement were strengthened by the addition of provisions, mandated in the passage of the Claims Resolution Act, to increase public oversight and reduce the risk of fraud in the claims process. *See* §§ 201(g),(h).

These provisions include:

- A non-judicial claims process administered by a set of highly-qualified Neutrals, approved by the Court, the Secretary of Agriculture, and the Attorney General, who are sworn by the Court to “determine each claim faithfully, fairly, and to the best of his or her ability.”⁴² Agreement §§ II.JJ, II.RR; *cf.* CRA § 201(g)(2). If any Neutral believes additional documentation is necessary or would be helpful to a decision on the merits of a claim, or suspects that a claim is fraudulent, he or she is authorized to request that additional documentation as a means of ensuring, as much as possible, accurate claim determinations. Agreement §§ V.C.4, V.D.4; *cf.* CRA § 201(g)(3);
- A requirement that claimants and their counsel make certain declarations, “under penalty of perjury,” regarding the factual representations made in support of each claim submitted for determination. As part of the Complete Claim Package, a prerequisite for proceeding through the non-judicial claims process, claimants must “declar[e], under penalty of perjury, that each of the statements provided by the claimant is true and correct.” Agreement V.A.1.a. In addition, counsel submitting a claim on behalf of a claimant also must include with the Complete Claim Package “[a] declaration . . . , under penalty of perjury, that to the best of the attorney’s knowledge, information, and belief formed after an inquiry reasonable under the circumstances, the claim is supported by existing law and the factual contentions have evidentiary support.”⁴³ Agreement § V.A.1.c; *cf.* Claims Resolution Act § 201(g)(5);
- An Ombudsman, appointed, approved, and directed by the Court, to be available to Class Members and the public to address concerns regarding the implementation of the Settlement and to serve as the “eyes and ears” of the Court throughout this period of the Court’s oversight. Agreement § VI;
- Transparency in the claims determination process, allowing oversight by Congress, the Secretary of USDA, the Attorney General, and the Court, including regular reports from the Claims Administrator and Class Counsel regarding progress and payments in the claims process. Agreement §§ IV.C.5, IV.F.5, IV.H.3, VI.B.3; *see also* Claims Resolution Act § 201(g)(6).⁴⁴

⁴² A full description of the qualifications of the Claims Administrator (Epiq Systems, Inc.), the Track A Neutral (The McCammon Group, Ltd.), and the Track B Neutral (Michael Lewis, Esq.), are described in Exhibits 7, 8, and 9.

⁴³ This is a more rigorous standard than the standard imposed by Federal Rule of Civil Procedure 11 for civil claims, in that it requires counsel to attest to their reasonable belief in the bona fides of their clients’ claims “under penalty of perjury.”

⁴⁴ *See* CRA §§ 201(h)(1)-(2) (Comptroller General of the Government Accountability Office is to “evaluate the internal controls . . . created to carry out the terms of the Settlement Agreement, and report to the Congress at least 2 times through the duration of the claims adjudication process on the results of

(continued . . .)

In short, the Parties have worked diligently to develop a rigorous process that will effectively limit awards to those claimants who present meritorious claims, ensure fairness and confidence in the claim determinations that are rendered, and provide appropriate transparency so that the public can have confidence that the appropriated funds are being used for their intended purposes. Plaintiffs believe that the Settlement Agreement before the Court accomplishes these goals.

4. The Settlement was the Product of Extensive Arms-Length Negotiations by Experienced Counsel.

The fairness, reasonableness, and adequacy of the Settlement is also demonstrated by the fact that the Agreement was “‘reached in arm’s length negotiations between experienced, capable counsel’” *Equal Rights Center*, 573 F. Supp. 2d at 212 (quoting *Blackman*, 454 F. Supp. 2d at 8); *Vista Healthplan, Inc.*, 246 F.R.D. at 360; *In re Vitamins*, 305 F. Supp. 2d at 104.

As detailed in the attached affidavit of Andrew H. Marks (Ex. 12), one of the lead negotiators on behalf of the Plaintiffs, the Settlement Agreement in this case was the product of arms-length negotiations that extended more than two years. Over the course of this extended period, the Parties exchanged at least 20 comprehensive settlement drafts, held numerous face-to-face negotiation sessions, and participated in many more conference calls to hammer out the terms of the Settlement Agreement now before the Court. These negotiations were carried out by “experienced, capable counsel,” including more than 20 law firms on the Plaintiffs’ side and a highly experienced team of Department of Justice and USDA lawyers on the other side. In light

(continued)

this evaluation,” USDA Inspector General is to undertake a performance audit “within 180 days of the initial adjudication of claims . . . , based on a statistical sampling of adjudicated claims”).

of these facts, there is every reason for the Court to conclude that the Settlement is fair, adequate, and reasonable. *See Equal Rights Center*, 573 F. Supp. 2d at 212 (settlements resulting from vigorous arms-length negotiations are presumptively fair, adequate, and reasonable); *accord In re Vitamins*, 305 F. Supp. 2d at 104.

5. The Settlement Provides for Sufficient Funds to Ensure Effective Implementation of the Settlement, While Also Protecting Against Overspending to the Detriment of the Class.

The provisions of the Settlement Agreement governing Implementation Costs and Ombudsman Costs are fair and reasonable. The Settlement recognizes the importance of ensuring adequate funds to pay for broad and effective notice to potential Class Members, retaining experienced Neutrals for the non-judicial claims process, and securing the services of a Claims Administrator and an Ombudsman, while at the same time ensuring that unnecessary costs are not incurred that would reduce the amount of the Settlement funds available to pay the claims of successful Class Members.

Thus, the Parties have agreed that the Implementation Costs will not exceed \$35 million, with Class Counsel taking responsibility to keep the costs under this Cost Cap. Agreement § II.I (definition of “Cost Cap”). This Cost Cap – along with the required Court approval of all Implementation Cost expenditures – provides assurance to the Class that the Settlement funds will not be depleted as a result of unnecessary expenditures in the implementation of the Agreement.⁴⁵

Plaintiffs are confident that \$35 million will be a sufficient amount to implement this Settlement and, indeed, provides a substantial cushion in the event costs exceed Plaintiffs’ initial

⁴⁵ The Agreement provides for up to \$3.5 million in additional Implementation Costs, subject to Court approval, if such costs are necessary to compensate the Claims Administrator and/or the Neutrals for their efforts in responding to GAO and USDA requests for information and audits pursuant to the Section 201(h) of the Claims Resolution Act. *See* Agreement §§ II.I, II.R, IV.H.

projections. To ensure that Implementation Costs are controlled, Plaintiffs have negotiated a fixed price agreement with the Notice Provider and are negotiating “not to exceed” agreements with the Track A and Track B Neutrals and the Claims Administrator.

In sum, Plaintiffs believe that the Implementation Cost and Ombudsman Cost provisions in the Settlement Agreement provide the appropriate balance between providing the funds necessary to establish an adequate notice process and a fair and efficient claims process, while protecting the Class against unnecessary costs that could diminish the recovery of successful claimants.

6. The Proposed Notice Program is Reasonably Designed to Protect the Interests of Absent Parties.

The proposed Notice Program (Ex. 5, Att. 3) accompanying this Motion is reasonable and appropriately designed to alert prospective Class Members and potential objectors to the terms of the Settlement. Rule 23(e)(1) requires the Court, as part of the settlement approval process, to “direct notice in a reasonable manner to all class members who would be bound by the proposal.” For Rule 23(b)(1) “limited fund” classes, such notice need only be “appropriate” for the class and ensure that the interests of absent parties are protected. Fed. R. Civ. P. 23(c)(2)(A); *see also Larionoff v. United States*, 533 F.2d 1167, 1186 (D.C. Cir. 1976) *aff’d*, 431 U.S. 864 (1977) (holding that due process is satisfied if the procedure adopted “fairly insures the protection of the interests of absent parties who are bound by it”) (internal citations omitted). For Rule 23(b)(3) classes, the standard is a higher one: notice must be “the best . . . practicable under the circumstances.” Fed. R. Civ. P. 23(c)(2)(B). Notwithstanding the fact that Plaintiffs are proposing a Rule 23(b)(1) class, the Notice Program proposed here is designed to satisfy the higher standard of “best practicable under the circumstances.” For this reason, Plaintiffs submit that the proposed Notice Program readily provides the due process demanded for Rule 23(b)(1) classes and should be approved by this Court.

Appropriate notice of a class settlement under Rule 23 should contain “a plain-English explanation of the Settlement and the Class members’ rights and options.” *In re Baan Co. Sec. Litig.*, 284 F. Supp. 2d 62, 67 (D.D.C. 2003); *see also Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 114 (2d Cir. 2005), *cert. denied*, 544 U.S. 1044 (2005). To satisfy this standard, Class Counsel are proposing Kinsella Media, LLC (“Kinsella”), a respected expert in “plain language” class notice, to serve as the Notice Provider in this case. A statement of Kinsella’s qualifications and experience is provided with Exhibit 5 to this Motion.

With Kinsella’s assistance, Class Counsel have developed a Notice Program (Ex. 5, Att. 3) designed to ensure, to the greatest extent possible, that clear, direct Notice reaches the maximum number of potential Class Members. *Cf.* Fed. R. Civ. P. 23(c)(2)(B) (a notice program in a 23(b)(3) class should “includ[e] individual notice to all [class] members who can be identified through reasonable effort”). To achieve this goal, the Notice Program utilizes three forms of Notice: (1) a Postcard Notice (Ex. 5, Att. 3, Appx. NP-4), sent to all known potential claimants; (2) a Publication Notice (Ex. 5, Att. 3, Appx. NP-6), published broadly in various media; and (3) a Long Form Notice (Ex. 5, Att. 3, Appx. NP-5), a comprehensive description of the Settlement posted on a publicly accessible website (www.blackfarmercase.com) and available in hard copy upon request to Class Counsel or the Claims Administrator.

Together, these forms of Notice provide: (1) a clear, plain-English explanation of the rights and options of prospective Class Members under the Settlement; (2) information regarding the criteria claimants must meet to be eligible for relief, and the amounts of awards for successful claimants; (3) information on how to submit a claim, how to obtain a lawyer for assistance, and how the lawyer is compensated for his or her services; (4) instructions on how to object if a prospective Class Member objects to all or part of the Settlement; (5) information

regarding the consequences of taking no action; and (6) contact information for prospective Class Members seeking more information.

a. Postcard Notice and Long Form Notice

Because of the unique posture of this case, the *Pigford* Facilitator already has available a “Timely 5(g) List” containing the vast majority of all “Late Filers” eligible to participate under the Settlement. The *Pigford* Facilitator also has contact information for individuals who sent communications to the Facilitator or another specified *Pigford* official after September 15, 2000 that arguably could be considered to be a *Pigford* “late-filing” request. The Notice Program (Ex. 5, Att. 3) calls for the Claims Administrator, in conjunction with the Notice Provider, to mail a Postcard Notice (Ex. 5, Att. 3, Appx. NP-4) to each person for whom it has record of a “late-filing” request – either through presence on the Timely 5(g) List or other communication. This form of Notice provides basic information regarding this Settlement, eligibility for relief, potential awards, and the right to object, and also provides a toll free number and website where the recipient can call or link to seek more information or to obtain a copy of the Long Form Notice. The Long Form Notice (Ex. 5, Att. 3, Appx. NP-5) contains a comprehensive discussion of the Settlement terms, the claims process, and the requirements for Class Members who wish to object to part or all of the Settlement. This Notice will be available on the website to be administered by the Claims Administrator (www.blackfarmercase.com), and will also be sent by the Claims Administrator to anyone who requests a copy.

Should any of these mailed Postcard Notices be returned as “undeliverable,” the Claims Administrator, in conjunction with the Notice Provider, will search for updated addresses for the recipients and will resend the Notices to any new addresses identified. Ex. 5, Att. 3, Notice Program at 9-10. Also, after a reasonable period, to ensure that Notice recipients are aware of their rights under the Settlement, the Claims Administrator will mail a second Postcard Notice

and place a follow-up phone call to any potential Class Members to whom a Postcard Notice was sent (and not returned), and who have not yet filed a claim. *Id.* at 10. Plaintiffs believe that this direct mailing effort should provide effective Notice to more than 90% of the individuals eligible to participate in the claims process outlined in the proposed Settlement.

b. Publication Notice and Other Paid and Earned Media

In addition to this direct outreach, the Notice Provider will saturate media outlets in African American communities with information about the Settlement. This will include “paid media” – *e.g.*, print advertisements in leading farm trade publications and more than 400 daily and community newspapers in areas with high concentrations of African American farmers (Ex. 5, Att. 3, Appx. NP-6); 60-second national and local radio spots in areas with large numbers of African-American farmers (Ex. 5, Att. 3, Appx. NP-7, Radio Advertisement Script); 60-second, 30-second, and 20-second public service announcements regarding the rights of potential Class Members under the Settlement (Ex. 5, Att. 3, Appx. NP-8, Public Service Announcement Script); and banner ads on websites frequented by the African American community. *See* Ex. 5, Att. 3, Notice Program at 13-33. It will also include “earned media” – *i.e.*, coverage of the Settlement in print and broadcast media generated by engaging African American opinion leaders, community organizations, Historically Black Colleges and Universities, and others to talk about the Settlement and generate press interest. *Id.* at 41-44.

c. Additional Outreach

Additional outreach contemplated by the proposed Notice Program includes outreach by the Notice Provider to third-party organizations in regular contact with potential Class Members – including African American churches, civil rights organizations, non-profit organizations focused on African American farmers, non-profit organizations focused on farming and agriculture generally, and agricultural trade associations – to obtain their help in disseminating

Notice materials. *Id.* at 43-44. Finally, as noted above, the Notice Provider will work with the Claims Administrator to establish a publicly available website on which updated information about the Settlement and claims process, as well as the Long Form Notice (Ex. 5, Att. 3, Appx. NP-5), will be posted. Ex. 5, Att. 3, Notice Program at 31. Finally, the Claims Administrator will operate a toll-free call center to answer Class Member questions. *Id.* at 45.

Plaintiffs submit that this sophisticated and comprehensive outreach effort readily meets, and indeed exceeds, the requirements of Rule 23. Accordingly, the Court should approve the proposed Notice Program.

7. The Range of Attorneys' Fees to Compensate Class Counsel is Reasonable.

The Agreement here contemplates that Class Counsel will petition the Court for a Fee Award in the range of 4.1% to 7.4% of the total funds appropriated for the Settlement (minus \$22.5 million for estimated costs of implementing the Agreement). The Agreement further provides that this amount will be reduced by the contingency fees negotiated and paid by successful Track B claimants from their respective recoveries. The amount of fees approved by the Court would be paid into a Common Benefit Fund that would compensate Class Counsel for: (a) their work on behalf of all Class Members prior to, and through, the Court's approval of the Settlement; (b) their work on behalf of all individual Track A claimants through the claims process set forth in the Settlement Agreement (other than those Track A claimants who elect to file *pro se* or to engage their own counsel); and (c) any work they perform on behalf of the Class as a whole following the Court's approval of the Settlement.

The Settlement provides that the Common Benefit Fund will be allocated among Class Counsel by the Plaintiffs' Steering Committee, a subgroup of Class Counsel, under the guidance of Lead Class Counsel, according to the terms of a Participation Agreement among certain

Plaintiffs' counsel.⁴⁶ The Participation Agreement, *inter alia*, apportions the anticipated claims preparation and submission work among all signatory counsel in these cases, and provides that compensation to counsel be based upon the work performed both before and after the Settlement on behalf of potential Class Members. In the event any counsel who are not parties to the Participation Agreement are approved by the Court as additional Class Counsel, such counsel would also be compensated from the Common Benefit Fund based on the work they have performed on behalf of the Class.

The Settlement further provides that fees paid to lawyers who assist Track B claimants with their claims would be paid by the Track B claimants from their awards, and that the fees will be limited to 8% of any Track B Award. Under the Settlement, both Class Counsel and non-Class Counsel may represent Track B claimants and be compensated through such contingency fees, which, subject to the 8% cap, will be negotiated by each individual claimant and his or her counsel. Agreement § II.QQ. The purpose of this separate provision for the compensation of counsel representing Track B claimants is to compensate them fairly, but not excessively, for the significant additional effort involved in preparing and submitting Track B claims.

Finally, the Settlement proposes a cap on the contingency fee for non-Class Counsel representing Track A claimants at 2% of any amounts awarded. *Id.* § II.II. Because all Track A claimants are entitled to the assistance of Class Counsel, without charge beyond the awarded Common Benefit Fees, the Parties expect that most claimants will utilize Class Counsel to assist them with their claims. Agreement § VIII.A.2. However, in recognition that some claimants may nevertheless prefer to engage their own counsel, the Settlement preserves this right, but

⁴⁶ This disclosure is made pursuant to Fed. R. Civ. P. 23(e)(3) ("The parties seeking approval [of a settlement] must file a statement identifying any agreement made in connection with the proposal."). The Participation Agreement will be submitted to the Court along with Class Counsel's fee petition.

requires such claimants to bear the cost of non-Class Counsel themselves rather than tax the Common Benefit Fund. The 2% Track A Individual Counsel Fee Cap, on the other hand, ensures that Track A claimants who elect to engage non-Class Counsel will be charged no more than 2% of their recovery.

Counsel will file with the Court, following preliminary approval, a detailed motion and memorandum in support of the attorneys' fees provisions of the Agreement and request a specific fee award within the 4.1% to 7.4% range set forth in the Agreement. For purposes of preliminary approval, however, the Parties submit that the range of the Common Benefit Fund agreed to by the parties is well within (indeed, well below) the range of common benefit awards the courts in this Circuit have approved in other class actions. *See, e.g., In Re Vitamins Antitrust Litig.*, Misc. No. 99-197, 2001 U.S. Dist. LEXIS 25067, at *58, 65 (D.D.C. July 16, 2001) (noting that "fee awards in common fund cases range from fifteen to forty-five percent," but for cases with large recoveries, "some courts have accounted for economies of scale by awarding fees in the lower percentage range of eleven to nineteen percent"); *In re Baan Co. Sec. Litig.*, 288 F. Supp. 2d 14, 16 (D.D.C. 2003) (awarding 28% of the common fund for attorneys' fees in a securities class action); *In re Lorazepam & Clorazepate Antitrust Litig.*, Civ. No. 99-0790, 2003 U.S. Dist. LEXIS 12344, at *30-31 (D.D.C. June 16, 2003) (approving attorneys' fees worth 30% of the common fund based on attorneys' experience and extensive work on the case).

* * * *

The Settlement proposed by the Parties represents the product of more than two years of negotiations conducted by highly-experienced counsel on both sides. While neither side secured all that it sought, the Settlement before the Court is fair, reasonable, and adequate for all parties. It establishes a thoughtful and comprehensive remedial process under Section 14012 to ensure that all those with meritorious *Pigford* claims once and for all obtain justice for the

discrimination they suffered. Moreover, in view of the limitations imposed by Congress in Section 14012 of the Farm Bill and Section 201 of the Claims Resolution Act, approval of this Settlement is the *only* way to ensure funding in an amount that is even *potentially* adequate to afford meaningful relief to all successful claimants. Accordingly, Plaintiffs urge the Court to preliminarily approve the Settlement so that Notice may be appropriately issued to the Class.

B. Certification of the Proposed Settlement Class is Appropriate Under Rules 23(a) and 23(b)(1)(B).

Certification of the limited fund Class before the Court represents the best, and perhaps *only*, means of managing the above-captioned case efficiently and equitably. Indeed, the global finality and equitable treatment that all parties seek can only be assured through class certification.

In this Motion, the Parties seek certification of a Rule 23(b)(1)(B) Settlement Class, defined as follows:

All individuals: (1) who submitted late-filing requests under Section 5(g) of the *Pigford v. Glickman* Consent Decree on or after October 13, 1999, and on or before June 18, 2008; but (2) who have not obtained a determination on the merits of their discrimination complaints, as defined by Section 1(h) of the Consent Decree.

Agreement § III.A. This proposed Class, and the Class Representatives and Class Counsel proposed to represent it, readily meet the requirements for certification under Rule 23(a), as well as the requirements for certification under Rule 23(b)(1)(B) articulated by the Supreme Court in *Ortiz v. Fibreboard Corp.*, 527 U.S. 815 (1999). In this case, certification of the proposed Class is essential to the effectuation of this Settlement, and will serve the interests of justice by fairly and equitably protecting both those putative Class Members whose claims have already been filed, and those whose claims are not yet filed in this case.

1. The Proposed Class is Sufficiently Definite to Permit Identification of Individual Class Members.

"It is axiomatic that for a class action to be certified a 'class' must exist." *Simer v. Rios*, 661 F.2d 655, 669 (7th Cir. 1981); *see also Pigford v. Glickmann*, 182 F.R.D. 341, 346 (D.D.C. 1998) (although Rule 23 "does not specifically require plaintiffs to establish that a class exists, this is a common sense requirement and courts routinely require it."). This is meant to "help the trial court manage the class," as it must be "administratively feasible for the court to determine whether a particular individual is a [class] member." *Bynum v. Dist. of Columbia*, 214 F.R.D. 27, 31 (D.D.C. 2003). The Settlement Class proposed here is easily ascertainable under this standard.

The proposed Class definition sets out two clear criteria for Class Membership: first, an individual must have "submitted [a] late-filing request[] under Section 5(g) of the *Pigford* Consent Decree on or after October 13, 1999, and on or before June 18, 2008," and second, he or she must "not [have] obtained a determination on the merits of [his or her] discrimination complaint[], as defined by Section 1(h) of the Consent Decree." Agreement § III.A. The first prong is easily ascertainable, in most instances, by reference to the *Pigford* Timely 5(g) List, a list of those claimants who requested to participate in the *Pigford* remedial process on or between October 13, 1999 and September 15, 2000.⁴⁷ The proposed Settlement provides that individuals whose names appear on the Timely 5(g) List, have presumptively met this first prong. Agreement § V.B.4.a.

⁴⁷ As discussed above, the *Pigford* Facilitator maintained largely complete records of those claimants who requested to participate in *Pigford* on or between October 13, 1999 and September 15, 2000. Ex. 3, Consent Decree § 5(g). For case management purposes, each such claimant was recorded in a database maintained by the *Pigford* Facilitator and given a unique *Pigford* tracking number. A total of 58,431 claimants recorded in this database were denied the opportunity to participate in *Pigford* because they did not meet the "extraordinary circumstances" standard, but the database with their information and tracking numbers is still available. Ex. 4, Bithell Decl. at ¶ 6. For purposes of the Settlement, this database is now known as the *Pigford* Timely 5(g) List. Agreement § II.BB.

Individuals whose names do *not* appear on the *Pigford* Timely 5(g) List may establish the first prong of Class Membership through independent documentary evidence of a late-filing request in *Pigford*. Agreement § V.B.4.a. The determination of whether a particular document constitutes a “late-filing request” under this Settlement will be made by the Claims Administrator, an independent evaluator who will be approved by the Court and trained to identify valid requests based on a “preponderance of the evidence” standard. *Id.* The *Pigford* Facilitator has maintained documentation received from at least 7,911 Late-Late Filers⁴⁸ which will be provided to the Claims Administrator and potentially could be found to constitute “late-filing” requests by those individuals.⁴⁹ Agreement §§ VIII.A.3, VIII.A.4. Plaintiffs believe that this documentation in the possession of the *Pigford* Facilitator, together with any documentation claimants may have in their own possession, will enable the Claims Administrator to identify claimants who satisfy the first prong of Class Membership under this Settlement.

Once a claimant has satisfied the first prong of Class Membership, that claimant must also satisfy the second prong, by showing there has been no determination on the merits of his or her *Pigford* claim. This, too, is a straight forward determination. The *Pigford* Facilitator maintains both a complete list of those claimants who received a determination on the merits of their *Pigford* claim under the Consent Decree (the “*Pigford* Participants List”) and a list of those

⁴⁸ See Ex. 4, Bithell Decl. ¶ 7.

⁴⁹ The *Pigford* Facilitator has informed undersigned counsel that its recordkeeping after September 16, 2000 may not be complete, and that it does not know whether the documentation it saved was the full scope of late-filing requests filed after that date. Moreover, in addition to the 7,911 apparent Late-Late Filers, the *Pigford* Facilitator has informed counsel that it has also received correspondence from an additional 17,515 individuals who submitted “form letters discussing the Consent Decree which could be construed as late filing requests.” Ex. 4, Bithell Decl. ¶ 7. Because the Facilitator’s records for late-filing requests filed on or after September 16, 2000 are not complete, and because of the “form letter” issue identified by the Facilitator, the Settlement provides that *all* late-filing requests filed on or after September 16, 2000 will be subject to review by the Claims Administrator, rather than automatically treating such correspondence as a valid 5(g) request.

claimants who opted out of *Pigford* and chose to pursue their discrimination claims through alternate means (the “*Pigford* Opt-Out List”). Agreement §§ II.Z, II.AA. These two lists together constitute a complete set of those claimants who received a “determination on the merits” of their *Pigford* claims, as defined in the Settlement Agreement. Agreement § V.B.4.b. In other words, whether a claimant satisfies the second prong of Class Membership can be determined simply by checking the claimant’s name against these two existing lists maintained by the *Pigford* Facilitator.

The existence of “already-created” lists for the vast majority of the Class, combined with clearly delineated mechanisms to determine Class eligibility for those claimants not on these lists, makes the Class in this case readily ascertainable.

2. The Proposed Class and Class Representatives Satisfy the Requirements of Rule 23(a).

Under Rule 23(a), a class may be certified if the following prerequisites are met:

(1) the class is so numerous that joinder of all members is impracticable [“(numerosity)”]; (2) there are questions of law or fact common to the class [“(commonality)”]; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class [“(typicality)”]; and (4) the representative parties will fairly and adequately protect the interests of the class [“(adequacy of representation)”].

Plaintiffs respectfully submit that the proposed Settlement Class satisfies each of these requirements.

a. Numerosity

Under Rule 23(a), a Court must first determine that a proposed class is “so numerous that joinder of all members is impracticable.” Rule 23(a)(1). There are already more than 40,000 claimants who have joined as plaintiffs in this consolidated action, and tens of thousands more are expected to file claims after Notice is distributed. The size of this Settlement Class plainly would make joinder of all members impracticable. For this reason, the numerosity requirement

of Rule 23(a) is readily met here. *See, e.g., Lindsay v. Gov't Employees Ins. Co.*, 251 F.R.D. 51, 55 (D.D.C. 2008) (“Typically, a class in excess of 40 members is sufficiently numerous to satisfy [the numerosity] requirement.”); *accord Disability Rights Council of Greater Wash. v. Wash. Metro. Area Transit Auth.*, 239 F.R.D. 9, 25 (D.D.C. 2006); *Bynum*, 214 F.R.D. at 32.

b. Commonality

To satisfy the commonality requirement under Rule 23(a)(2), there must be “questions of law or fact common to the class.” Rule 23(a)(2). Commonality, however, need not be complete. *See Bynum*, 214 F.R.D. at 33 (“[I]t is not necessary that every issue of law or fact be the same for each class member”)(citing *Forbush v. J.C. Penney, Inc.*, 994 F.2d 1101, 1106 (5th Cir. 1993)). Rather, if “there is some aspect or feature of the claims which is common to all,” the commonality requirement is met. *Pendleton v. Schlesinger*, 73 F.R.D. 506, 509 (D.D.C. 1977), *aff'd*, *Pendleton v. Rumsfeld*, 628 F.2d 102 (D.C. Cir. 1980).

The members of the proposed Settlement Class share a common interest in ensuring that all successful claimants have an equal opportunity to receive compensation for the discrimination they have suffered. *Cf. In re Joint E. & S. Districts Asbestos Litig.* 878 F. Supp. 473, 563 (E.D.N.Y. 1995) (finding commonality where beneficiaries to a trust “shared a common interest in . . . assuring an equitable distribution of [limited] funds”). Here, as noted above, only \$1.25 billion (minus Implementation Costs, Ombudsman Costs, and attorneys’ fees) is available to pay meritorious claims. Because it is likely that this limited Settlement fund will not be sufficient to pay all meritorious claims the full amounts of their awards, this case, absent approval of the proposed Settlement, creates a substantial risk of a “race to the courthouse” scenario, whereby those Section 14012 Plaintiffs whose claims are resolved first would potentially exhaust the limited funds available to the detriment of later filing Plaintiffs. All Class Members share a

common interest in not being denied a recovery by virtue of where in the sequence of adjudications their claim happens to fall.

All members of the Settlement Class also share a common interest in ensuring that the funds available to pay successful claimants are not limited to the \$100 million appropriated by the 2008 Farm Bill. Because the additional \$1.15 billion appropriated by Congress in the 2010 Claims Resolution Act is conditioned on the approval by the Court of the Settlement that is now before the Court, all members of the Settlement Class share a common interest in the approval of this Agreement.

In addition, all members of the Settlement Class share a common interest in minimizing the evidentiary burdens and costs, as well as the delays that a judicial claims process will entail. Thus, all Settlement Class members share a common interest in the implementation of the non-judicial claims process that the Settlement Agreement would establish.

In sum, there are a number of issues common to the proposed Settlement Class. For this reason, the Court should find that the requirements of Rule 23(a)(2) are met.

c. Typicality and Adequacy

The third and fourth prongs of Rule 23(a) require that the claims and defenses of the named plaintiffs be “typical of the claims and defenses of the class,” and that the named plaintiffs and proposed class counsel “fairly and adequately represent the interests of the class.” Rule 23(a)(3)-(4). Plaintiffs readily satisfy both of these requirements.

The typicality requirement of Rule 23(a) is meant to “ensure[] that the claims of the representative and absent class members are sufficiently similar so that the representatives’ acts are also acts on behalf of, and safeguard the interests of, the class.” *Littlewolf v. Hodel*, 681 F. Supp. 929, 935 (D.D.C. 1988) *aff’d sub nom. Littlewolf v. Lujan*, 877 F.2d 1058 (D.C. Cir. 1989); *see also In re Vitamins Antitrust Litig.*, 209 F.R.D. 251, 260 (D.D.C. 2002). The

adequacy of representation requirement of Rule 23(a) is intended to ensure that the class representatives identified can “adequately represent the interests of the class,” *Lindsay*, 251 F.R.D. at 55 (internal citation omitted), as measured by the absence of a “conflict of interest between the legal interests of the named plaintiffs and those of the proposed class.” *Johnson v. Dist. of Columbia*, 248 F.R.D. 46, 53-54 (D.D.C. 2008). Because both of these Rule 23(a) requirements deal with the qualifications of named plaintiffs and their role representing the class, courts have recognized that these requirements “tend[] to merge.” *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 626 n.20 (1997) (quoting *Gen. Telephone Co. of Southwest v. Falcon*, 457 U.S. 147, 157 n.13 (1982)). For purposes of this analysis, therefore, Plaintiffs address the typicality and adequacy together.

i. Named Plaintiffs

The claims of the named plaintiffs in this case are collectively typical of the claims that are likely to be presented by members of the proposed Class, and their advocacy will adequately match the interests of unnamed Class Members. A description of the named plaintiffs and the discrimination they suffered illustrates the extent of their typicality and adequacy to serve as Class Representatives.

James Copeland is an African American from Harris County, Georgia who grew up farming 37.6 acres of corn, collard greens, turnips, and okra and raising livestock with his grandfather. The land was originally owned by Mr. Copeland’s grandfather, but ultimately passed to Mr. Copeland when his grandfather and mother passed. Between 1990 and 1992, Mr. Copeland went to a USDA office in Talbot County, Georgia to apply for a loan to buy farm equipment. Mr. Copeland believed that with a modest loan, he could increase production on his farm to the point where he could begin farming full time, and even hire several family members to help him with the business. At the Talbot County USDA office, Mr. Copeland was told by the

USDA loan officer “not to look [him] in the eye” when filling out his loan paperwork, and when Mr. Copeland returned three weeks later to check on his application status, the USDA staff told him that his loan paperwork had been lost. Several weeks later, Mr. Copeland again applied for the same loan, and again his paperwork was “lost.” Mr. Copeland complained to an official at the USDA office that he suspected USDA kept “losing” his application because he was black. As a result of his inability to obtain a loan, Mr. Copeland had to sell his family’s farmland and leave farming altogether. He submitted a late-filing request to participate in *Pigford* on September 1, 2000,⁵⁰ – *i.e.*, he is a Late Filer – but he was not given a determination on the merits of his discrimination claim.

Earl Moorner is the son and heir of John Moorner, a now-deceased African American farmer from White Hall, Alabama who grew primarily soybeans and cotton and raised cattle on 25-30 acres of owned land and on 300 acres of leased land from 1981-1984. Each year, from 1981 through 1984, John Moorner went to the Farmers Home Administration (“FmHA”)⁵¹ office in Lowndes County, Alabama to seek loans of approximately \$25,000 to \$30,000 to hire farm help and combat insect infestations that were affecting his crops. Earl Moorner, on several of these occasions, accompanied his father to the FmHA office in Lowndes County and helped him fill out the loan applications, as John Moorner was illiterate. Each year, Mr. Moorner’s loan applications were granted for half or less than half of what was requested, or were denied altogether. John Moorner verbally complained to the FmHA official about this treatment, citing white farmers in the area who received better treatment than he did, and believed that his denial or reduced loan was due to race discrimination. As a result of an inability to access farm credit,

⁵⁰ Mr. Copeland’s name is on the Timely 5(g) List.

⁵¹ The Farmers Home Administration is a predecessor of the current Farm Services Agency (FSA) within USDA.

John Moorner had to file bankruptcy, and lost all but two acres of his family farm. Earl Moorner, on behalf of John Moorner, filed a late-filing request in *Pigford* on September 5, 2000,⁵² – *i.e.*, he is a Late Filer – but he has not yet received a determination on the merits of his discrimination complaint.

Marshallene McNeil is an African American who farmed approximately 10 acres of family land on a 90-acre plot in Camden, Alabama. The land was originally owned by her great uncle and great aunt, and then maintained by her father. Ms. McNeil has maintained and paid taxes on the land since their passing. She farmed primarily vegetables, including okra, corn, green beans, and cucumbers, maintained some livestock, and at times attempted to grow cotton. In 1982, Ms. McNeil went to the FmHA office in Camden, Alabama to request a loan to buy seeds and fertilizer for her crops, and to pay the workers on her farm. She was told by the administrator of the office that there was no money available for her, and her loan application was denied. Ms. McNeil complained to the same FmHA official that she thought her denial was due to racial discrimination, as she knew white farmers in the area who had received loans from the office. As a result of her inability to get a loan, Ms. McNeil lost several acres of crops as well as some livestock. Several years after her loan was denied, financial hardship forced Ms. McNeil to leave farming altogether. Ms. McNeil submitted a late-filing request to participate in *Pigford* on September 16, 2000 – *i.e.*, she is a Late-Late Filer. She has not received a determination on the merits of her discrimination claim.

These claims are typical of the Class in this case, and these named plaintiffs are adequate representatives of the absent members of the Class proposed in the Settlement Agreement. With regard to the Class Representatives, the Rules 23(a)(3) and 23(a)(4) requirements are clearly met.

⁵² Mr. Moorner's name is on the Timely 5(g) List.

ii. **Class Counsel**

The Rule 23(a)(4) adequacy test is also intended to ensure that “counsel for the class is competent to represent the class.” *Johnson*, 248 F.R.D. at 54. This inquiry echoes a similar inquiry encapsulated in Rule 23(g)(4), which provides that the duty of class counsel is to “fairly and adequately represent the interests of the class.” Rule 23(g)(1) delineates the criteria for making that determination, stating that “[i]n appointing class counsel, the court must consider:

- (i) the work counsel has done in identifying or investigating potential claims in the action;
- (ii) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action;
- (iii) counsel's knowledge of the applicable law; and
- (iv) the resources that counsel will commit to representing the class.

In addition, the Court “may consider any other matter pertinent to counsel's ability to fairly and adequately represent the interests of the class” *Id.*

Here, proposed Class Counsel readily meet the requirements of Rule 23(a)(4) and Rule 23(g). Class Counsel collectively have already spent thousands of hours responding to questions from potential claimants regarding their rights under Section 14012 and preparing their cases for individual litigation prior to the commencement of settlement negotiations. In addition, Class Counsel, as a whole, have spent significant time and money in creating administrative systems to handle the volume of individuals seeking representation in Section 14012 claims and to answer the high volume of inquiries by potential claimants as this case has continued. Class Counsel also have created websites and other informational materials for Class Members to inform them of their rights under Section 14012. *See* Case Management Order No. 1 (Dec. 15, 2008) (Docket No. 31).

Beyond the work and resources that Class Counsel already have dedicated to this consolidated action, Class Counsel also have the knowledge and expertise necessary to represent the interests of the Class. Plaintiffs have proposed as Lead Counsel three highly experienced attorneys: Andrew H. Marks of Crowell & Moring LLP in Washington, D.C., Henry Sanders of Chestnut, Sanders, Sanders, Pettaway & Campbell, L.L.C. in Selma, Alabama, and Gregorio A. Francis of Morgan & Morgan, P.A. in Orlando, Florida. These proposed lead counsel combine considerable class action and large case management experience, as well as, in the case of Mr. Sanders, invaluable experience as one of the principal counsel in the *Pigford* case. Both individually and collectively, Messrs. Marks, Sanders, and Francis are well qualified to represent the proposed Settlement Class. In addition to the proposed lead Class Counsel, Plaintiffs propose that the Court approve as additional Class Counsel the individuals identified in Exhibit 13 to this Motion. These counsel have significant experience with national class actions and/or significant litigation experience and will be able to advocate effectively for Class Members in the claims process outlined by the Agreement. For these reasons, the Court should find that proposed Class Counsel are both “adequate” and “competent” to represent the Class.

3. The Proposed Class Meets the Rule 23(b)(1)(B) Requirements of a “Limited Fund.”

In addition to satisfying the requirements of Rule 23(a), the proposed Settlement Class satisfies the requirements of Rule 23(b)(1)(B), which allows for certification where “prosecuting separate actions by or against individual class members would create a risk of . . . adjudications with respect to individual class members that, as a practical matter, would be dispositive of the interests of the other members not parties to the individual adjudications or would substantially impair or impede their ability to protect their interests.” Certification of a “limited fund” class is appropriate “where the judgment in a nonclass action by or against an individual member of the

class, while not technically concluding the other members, might do so as a practical matter.”

Rule 23(b)(1) Advisory Committee Note (1966).

In the landmark case of *Ortiz v. Fibreboard Corp.*, the Supreme Court identified three prerequisites for certification of a “limited fund class” under Rule 23(b)(1)(B):

- (1) The “totals of the aggregated liquidated claims and the fund available for satisfying them, set definitely at their maximums, [must] demonstrate the inadequacy of the fund to pay all the claims;”
- (2) “The whole of the inadequate fund [must] be devoted to the overwhelming claims;” and
- (3) “The claimants identified by a common theory of recovery [must be] treated equitably among themselves.”

527 U.S. at 838-39. The proposed Settlement satisfies each of these criteria.

The first prong of the *Ortiz* test includes two requirements – first, the court must determine that the fund is “set at [its] maximum;” and second, the court must determine that the fund is inadequate to pay all claims. Here, Congress made clear in the Claims Resolution Act that the \$1.25 billion which will become available for payment of Section 14012 claims upon approval of this Settlement is the maximum that will be provided for this purpose. The 2008 Farm Bill included a provision authorizing “appropriat[ion] [of] such sums [beyond the \$100 million provided] as [we]re necessary to carry out [Section 14012],” § 14012(i)(2), and further required the Secretary to provide a “depletion of funds report” to Congress when 75 percent of the first \$100 million had been depleted. § 14012(j)(2). The Claims Resolution Act expressly repealed these provisions, thus making clear that \$1.25 billion is the full extent of funding that will be available for Section 14012 claims. Thus, the \$1.25 billion Settlement fund is now “set at [its] maximum.” *Ortiz*, 527 U.S. at 838-39.

The second requirement of the first prong of the *Ortiz* test is also met here because the \$1.25 billion fund will almost certainly be “inadequa[te] . . . to pay all the claims.” *Id.* Certainty

of such inadequacy, however, is not required by Rule 23(b)(1)(B); rather, to warrant class certification, there need only be a “substantial probability – that is, less than a preponderance but more than a mere possibility – that if damages are awarded, the claims of earlier litigants would exhaust the defendants’ assets.” *In re Agent Orange Prod. Liab. Litig.*, 100 F.R.D. 718, 726 (E.D.N.Y. 1983). In this case, the 2008 Farm Bill establishes that the award for a meritorious Track A claim is at least \$62,500 – \$50,000 in liquidated damages and \$12,500 (25%) to offset tax liability on that award.⁵³ See Agreement §§ II.KK, II.LL, II.NN. Even if no Track A claimants were entitled to debt relief and there were no successful Track B claimants, the Fund would be sufficient to compensate *only* 20,000 Track A claimants. More than 40,000 people already have filed claims in this case, and thousands more are expected to file claims after Notice is issued. Even if only 55,000 additional claimants come forward and only 50% of the total claimants prevail on their claims (a percentage significantly lower than the 69% success rate in *Pigford*),⁵⁴ 27,500 Class Members would have meritorious claims entitling them to, at least, the minimum Track A Award – well more than the 20,000 the \$1.25 billion fund could pay in full. This calculation demonstrates that there is a “substantial probability” that the limited fund here will be “inadequa[te] to pay all the claims.” See *In re Agent Orange*, 100 F.R.D. at 726; *Ortiz*, 527 U.S. at 838-39. Accordingly, the first prong of *Ortiz* is met.

The second prong of the *Ortiz* test also is satisfied here because “the whole of the inadequate fund [minus a modest payment for Implementation Costs, Ombudsman Costs, and attorneys’ fees, is] devoted to the overwhelming claims.” *Id.* Here, as noted above, the claim awards are very likely to exceed the \$1.25 billion, resulting in claim reductions until the sum

⁵³ If a Track A claimant is entitled to debt relief, then the award would be even higher.

⁵⁴ See www.pigfordmonitor.org/stats.

total of all awards is \$1.25 billion (minus Implementation Costs, Ombudsman costs, and attorneys' fees) – the full amount of the inadequate fund.

Finally, as required by the third prong of *Ortiz*, the proposed Settlement establishes a fair system of distributing award payments among all successful claimants, such that the Class Members will be “treated equitably among themselves.” *Ortiz*, 527 U.S. at 838-39. The award calculation process under the Settlement for the different categories of claimants is explained in Section IV.A, *supra*. Plaintiffs submit that this process will ensure that similarly-situated claimants are provided with the same awards through the same payment mechanisms, while being subject to the same requirements of proof. This identical treatment of similarly-situated claimants is the hallmark of fairness and equity and, therefore, satisfies the third prong of *Ortiz*.

In short, the Settlement Class before the Court is readily ascertainable and manifestly satisfies the requirement of both Rule 23(a) and Rule 23(b)(1)(B) for certification as a limited fund class. The Court should therefore conditionally certify the proposed Class.

C. The Proposed Procedures for Objectors are Fair and Reasonable.

Consistent with the safeguards provided by Rule 23(e), the proposed procedure for the consideration of objections by Class Members, if any, to the Settlement Agreement is fair and reasonable and promotes the Parties' overall goal of finally resolving these long-standing *Pigford* claims in a timely and efficient manner.

The proposed procedure requires any Class Member wishing to object to the Settlement to file his or her objection with the Court, and serve all counsel of record, at least 45 days prior to the Final Approval Hearing Date. Proposed Order (Exhibit 1) ¶ 28. The requirement for filing and service substantially in advance of the Final Approval Hearing will ensure that Class Counsel and objectors have the opportunity to meet and confer about specific objections in advance of the hearing, in the hope that such objections can be resolved without the Court's

intervention. In this Circuit as well as others, courts have found it fair and reasonable to require that objections to a settlement be filed within a short period after notice is distributed. *See, e.g., Murthy v. Schafer*, 579 F. Supp. 2d 110, 111 (D.D.C. 2008) (plaintiffs given 30 days to object to a settlement agreement); *Torrise v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1375 (9th Cir. 1993) (31 days afforded between mailing of notice and deadline to opt out or object). Here, the proposed procedure provides between five and six weeks for objectors to develop their arguments, stating that such objections need not be filed and served until 45 days *before the Final Approval Hearing*. Assuming that Notice will be disseminated promptly after preliminary approval of this Settlement, and that the Final Approval Hearing will not be scheduled for at least 90 days after the Court grants preliminary approval of the Settlement, the procedures proposed here provide ample time for objectors to develop and state any concerns about the Settlement.

Finally, the proposed procedure for objections allows Class Members – or their counsel – to appear and be heard at the Fairness Hearing, provided they serve the Court, Class Counsel, and Defendant’s Counsel, with written notice of their intention to do so at least 30 days prior to the Final Approval Hearing Date. Ex. 1, Proposed Order at ¶ 28. *See Bynum v. Govt. of Dist. of Columbia*, 384 F. Supp. 2d 342, 347 (D.D.C. 2005) (objectors required to file an appearance with Court and all Counsel, a notice to appear, statement of objections, and all documentation, papers, or briefs at least two weeks before the Fairness Hearing). These procedures are designed to provide the parties supporting the Settlement with reasonable notice that allows for a prepared, thoughtful response to any proposed objections at the Fairness Hearing, and potentially to resolve such issues prior to their presentation before the Court.

In sum, the proposed procedure for objections will ensure that Class Members are afforded a fair, reasonable, and adequate opportunity to object to the terms of the Settlement

Agreement, while providing the Parties the opportunity to address and thoughtfully respond to any concerns that may be raised about the Settlement.

D. The Court Should Enter a Protective Order to Manage the Privacy and Use of the Pigford Timely 5(g) List, the Pigford Participants List, the Pigford Opt-Out List, and Other Materials Disclosed to Class Counsel Under Sections VIII.A.3 and VIII.A.4 of the Settlement Agreement.

On December 23, 2008, this Court entered a protective Order to govern disclosure and use of the so-called “5(g) list,” a list containing names, addresses, home phone numbers, and tracking numbers assigned by the *Pigford* Facilitator to individuals who, pursuant to Section 5(g) of the Consent Decree, sought participation in the original *Pigford* action after the initial deadline for filing claims had passed and whose “late-filing” petitions were denied by the *Pigford* Arbitrator. Order of December 23, 2008 (Docket No. 34). Since its issuance, the Parties to this action have complied fully with the terms of the December 23, 2008 Order.

Within the Settlement Agreement before the Court, the Parties have proposed that Lead Class Counsel undertake the following duties:

- (1) Obtain from the *Pigford* Facilitator (a) a current version of the *Pigford* Timely 5(g) List, (b) copies of all late-filing requests, (c) all other available information and correspondence regarding the late-filing status of Class Members, including any lists prepared by the *Pigford* Facilitator reflecting such status, (d) the *Pigford* Participants List, and (e) the *Pigford* Opt-Out List. Lead Class Counsel shall make these materials available to the Claims Administrator and the Track A and B Neutrals. This information shall be subject to any existing or future protective orders of the Court;
- (2) Upon request by a claimant or Individual Counsel representing a claimant and after proof of compliance with any existing or future protective orders of the Court, provide to such Individual Counsel or claimant verification of the claimant’s presence on the most recent *Pigford* Timely 5(g) List, *Pigford* Participants List, and *Pigford* Opt-Out List in Class Counsel’s possession as well as copies of any of the communications or information in Class Counsel’s possession that refer or relate to the claimant on whose behalf the request is made.

Agreement §§ VIII.A.3, VIII.A.4. Plaintiffs recognize that the *Pigford* Timely 5(g) List, the *Pigford* Participants List, the *Pigford* Opt-Out List, and the communications Class Counsel will receive from the *Pigford* Facilitator under Section VIII.A.3 of the Settlement Agreement contain

the same type of personal and/or confidential information that prompted the December 23, 2008 Order. Plaintiffs therefore believe that a similar Protective Order governing all of these lists and materials should be issued at this time.

The Protective Order provisions proposed by Plaintiffs are set forth in paragraphs 30-34 of the draft Order presented with this Motion (Ex. 1). This proposed Order, which is modeled after this Court's December 23, 2008 Order, tracks the Settlement Agreement and provides Class Counsel with access to all lists and materials received from the *Pigford* Facilitator, subject to reasonable privacy protections and limitations on use for new client solicitation. This should provide all Class Counsel with the ability to determine whether the clients they already individually represent are eligible for relief under the Settlement. If a claimant is not already individually represented by Class Counsel, that claimant and any non-Class Counsel they may engage would be able to verify with Lead Class Counsel whether the claimant's name appears on the Timely 5(g) List, the *Pigford* Opt-Out List, or the *Pigford* Participants List. This will afford non-Class Counsel and *pro se* claimants the same access as Class Counsel to the necessary information on these lists.

In addition, the proposed Protective Order would require Lead Class Counsel to make available to each claimant and his or her counsel, whether Class Counsel or Individual Counsel, copies of all materials relating to a late-filing request provided by the *Pigford* Facilitator. This will allow all claimants the same ability to demonstrate that they submitted a late-filing request, regardless of whether they choose to be represented by Class Counsel or Individual Counsel, or to proceed *pro se*.

In sum, the proposed Protective Order would provide Class Counsel, Individual Counsel, and *pro se* claimants the same access to information necessary to prove individual eligibility under the Settlement, while at the same time protecting individual privacy and confidentiality by

imposing reasonable limits on the dissemination of that information. For these reasons, Plaintiffs ask that the Court, pursuant to Rule 26(c), enter the proposed Protective Order.⁵⁵

V. CONCLUSION AND REQUEST FOR HEARING

The Settlement before the Court is a landmark achievement in the struggle for civil rights in the United States. If approved by the Court, it will resolve once and for all the claims of *Pigford* claimants who were denied relief on their discrimination claims in *Pigford* merely because they filed their claims late. While modest cash awards cannot right the wrong for a farmer who lost his or her farm because he or she did not have access to farm credit, the payments under the Settlement are an unquestionably important step toward justice. More than 40,000 claimants already have come forward seeking relief under Section 14012 of the Farm Bill. Thousands more will make themselves known after the proposed Notice is distributed. Under this Settlement, these claimants will have a new opportunity to present and prove their discrimination claims, under standards similar to what they would have been required to satisfy in *Pigford*.

The Settlement before the Court is a fair, reasonable, and adequate resolution of Section 14012 claims for the proposed Class. Accordingly, Plaintiffs move this Court to preliminarily approve the Settlement, conditionally certify a Rule 23(b)(1) Class, schedule a Fairness Hearing to consider Final Approval of the Settlement after the Notice has been distributed, and to enter the proposed Preliminary Approval Order attached to this Motion (Ex. 1).

⁵⁵ The distribution of 5(g) information agreed upon in the Settlement Agreement would effectively supersede the December 23, 2008 Order governing the same topics. Accordingly, as part of the proposed Protective Order in Exhibit 1, the December 23, 2008 Order should be rescinded.

Respectfully submitted,

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Dated: March 30, 2011

EXHIBIT 1

to the

**Memorandum of Points and Authorities in Support of
Plaintiffs' Motion for Preliminary Approval of Settlement,
Certification of a Rule 23(b)(1)(B) Class,
And for Other Purposes**

***In re Black Farmers Discrimination Litigation*
Case No. 08-mc-0511-PLF (D.D.C.)**

Proposed Preliminary Approval Order

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**In re BLACK FARMERS DISCRIMINATION
LITIGATION**

Misc. No. 08-mc-0511 (PLF)

This document relates to:

ALL CASES

**PLAINTIFFS' PROPOSED ORDER GRANTING PRELIMINARY
APPROVAL OF SETTLEMENT AGREEMENT, CERTIFYING A
RULE 23(b)(1)(B) SETTLEMENT CLASS, AND FOR OTHER PURPOSES**

The Court has reviewed and considered Plaintiffs' Motion for Preliminary Approval of Settlement Agreement, Certification of a Rule 23(b)(1)(B) Settlement Class, and for Other Purposes ("Motion"), including the exhibits thereto, and has reviewed and considered the terms and conditions of the Settlement Agreement dated February 18, 2010, revised as of March 23, 2011 (the "Settlement Agreement"). Upon consideration of these submissions and the entire record herein, with good cause for this Order having been shown, it is hereby

ORDERED that the terms of the Settlement Agreement are preliminarily approved, subject to further consideration thereof at the Final Approval Hearing provided for below. The Court finds that the proposed Settlement Agreement is within the range of reasonableness so that Notice of the proposed Settlement should be sent to the Class as provided in Paragraphs 16-18 of this Order.

CERTIFICATION OF THE SETTLEMENT CLASS

1. For purposes of settlement only, and pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(1)(B), the action styled as *In re Black Farmers Discrimination Litig.*, Misc. No. 08-mc-0511 (PLF) (D.D.C.), is conditionally certified as a class action on behalf of the following persons (collectively, the “Class” and each member of the Class as a “Class Member”), effective upon Final Approval of the Settlement Agreement:

All individuals: (1) who submitted late-filing requests under Section 5(g) of the *Pigford v. Glickman* Consent Decree on or after October 13, 1999, and on or before June 18, 2008; but (2) who have not obtained a determination on the merits of their discrimination complaints, as defined by Section 1(h) of the Consent Decree.

Based on the Court’s review of the Motion and supporting materials, the Court finds that the proposed Class satisfies Rules 23(a) and 23(b)(1)(B).

2. The Court finds that the following Representative Plaintiffs will fairly and adequately protect the interests of the Class and therefore conditionally appoints them as representatives of the Class, pursuant to Federal Rule of Civil Procedure 23(a)(4):

James Copeland
3 Effingham Court
Columbus, GA 31909

Earl Moorner, on behalf of the Estate of John Moorner
292 Benton Rd.
Lowndesboro, AL 36752

Marshallene McNeil
472 Hwy 41 North
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3. For purposes of effectuating the Settlement Agreement, the following individuals are conditionally appointed Lead Class Counsel:

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These Lead Class Counsel are responsible for carrying out the duties of Lead Class Counsel set forth in the Settlement Agreement.

4. Pursuant to Federal Rule of Civil Procedure 23(g), for purposes of effectuating the Settlement Agreement, the following individuals are conditionally appointed as Class Counsel:

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These Class Counsel are responsible for carrying out the duties of Class Counsel as set forth in the Settlement Agreement.

5. The certification of the Class, appointment of Representative Plaintiffs as representatives of the Class, and appointment of Class Counsel, Lead Class Counsel, and the Plaintiffs' Steering Committee are solely for the purposes of effectuating the Settlement Agreement. If the Settlement Agreement is terminated or is not consummated for any reason, the foregoing certification of the Class, appointment of the Representative Plaintiffs as representatives of the Class, and appointment and designation of Class Counsel, Lead Class Counsel, and the Plaintiffs' Steering Committee, shall be void and of no effect and both

Plaintiffs and the Secretary of the United States Department of Agriculture (the “Defendant”) (collectively “the Parties”) shall be returned to the status each occupied before entry of this Order without prejudice to any legal argument that any of the Parties to the Settlement Agreement might have asserted but for the Settlement Agreement.

INJUNCTION AGAINST FILING OF NEW AND AMENDED ACTIONS

6. All members of the prospective Class, and any other person, representative, or entity, are hereby barred and enjoined from: (i) filing, commencing, or intervening in any claim, lawsuit, arbitration, administrative, regulatory or other proceeding arising out of Section 14012 of the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-234 and/or 110-246, (“Section 14012”), and (ii) organizing or soliciting the participation of any members of the Settlement Class into a separate class for the purposes of pursuing a purported class action arising out of Section 14012 (including by seeking to amend a pending complaint to include class allegations, or by seeking class certification in a pending action). The Court finds that the issuance of this injunction is necessary and appropriate in aid of the Court's jurisdiction over the action and to protect and effectuate the Court's review of the Settlement.

7. All proceedings in the above-captioned Consolidated Action, other than that such as may be necessary to carry out the terms and conditions of the Settlement Agreement or the responsibilities thereto, are stayed and suspended until further Order of this Court.

APPROVAL OF THE COST CAP FOR IMPLEMENTATION COSTS

8. The “Cost Cap,” as defined in Section II.I of the Settlement Agreement, is set at \$35,000,000.

9. Class Counsel may move for the payment of up to an additional \$3,500,000 from 2008 Funds to pay for reasonable additional fees and costs above the Cost Cap incurred by the

Track A Neutrals, the Track B Neutrals, and/or the Claims Administrator arising out of the reporting requirements and/or the audit provisions of Section 201(h) of Pub. L. 111-291, 124 Stat. 3064 (Dec. 8, 2010).

APPROVAL OF CLAIMS ADMINISTRATOR AND NEUTRALS

10. Epiq Systems, Inc. is approved to serve as Claims Administrator for purposes of effectuating the Settlement Agreement and shall fulfill the roles designated for the Claims Administrator in the Settlement Agreement.

11. The McCammon Group is approved to serve as the Track A Neutral for purposes of effectuating the Settlement Agreement and to fulfill the role designated for the Track A Neutral in the Settlement Agreement.

12. Michael L. Lewis, Esq., of JAMS Mediation, Arbitration, and ADR Services, is approved to serve as the Track B Neutral for purposes of effectuating the Settlement Agreement and to fulfill the role designated for the Track B Neutral in the Settlement Agreement.

13. Each individual designated by The McCammon Group or Michael L. Lewis to serve as a Track A Neutral or Track B Neutral must notify Lead Class Counsel of their designation. Within ten (10) days of such notification, Lead Class Counsel shall inform the Court of the names of any individuals so designated so that the Court may administer an oath to each individual that he or she will fulfill his or her respective role faithfully, fairly, and to the best of his or her ability. No individual designated as a Track A or Track B Neutral may take any action in that role before taking the aforementioned oath administered by the Court.

14. The Claims Administrator, Track A Neutral, and Track B Neutral shall have no liability to any claimants, including both Class Members and other individuals seeking to participate in the claims program provided for in the Settlement Agreement and approved by this

Court. Accordingly, these entities, as well as their officers, employers, employees, independent contractors, vendors, subcontractors, shareholders, and agents, shall not be subject to any suits, claims, actions, or liabilities that may be asserted by any such claimants.

15. Payments to the Claims Administrator, the Track A Neutral, and the Track B Neutral are Implementation Costs that shall be paid in accordance with Sections IV.C, IV.D, IV.E, IV.F, and IV.H of the Settlement Agreement upon application of Class Counsel and approval by this Court. Such payments shall not, in total, exceed the Cost Cap.

FORM AND TIMING OF NOTICE

16. The Court finds the proposed Notice Program (Ex. 5, Att. 3 to Motion) to be appropriate for the Class, practicable under the circumstances, and designed to fairly ensure the protection of the interests of absent parties who are to be bound by it. When completed, it shall constitute due and sufficient notice of the Settlement Agreement and the Final Approval Hearing to all persons affected by and/or eligible to participate in the remedial processes set forth in the Settlement Agreement or the Final Approval Hearing, and therefore will satisfy the requirements of due process and the Federal Rules of Civil Procedure.

17. Pursuant to Federal Rule of Civil Procedure 23(e)(1), no later than thirty (30) days after entry of this Order, the Plaintiffs shall cause copies of the forms of Notice proposed in the Notice Program to be disseminated in the manner delineated in the Notice Program.

18. The costs of implementing the Notice Program shall be paid out of the “interim Implementation Costs” authorized in Sections IV.C and IV.D of the Settlement Agreement.

19. No later than twenty (20) days prior to the Final Approval Hearing, the Notice Provider shall file with the Court a declaration confirming compliance with the Notice procedures approved by this Court.

CONTINGENT ATTORNEYS' FEES

20. For purposes of effectuating the Settlement Agreement, a “Track A Individual Counsel Fee” (as defined in the Settlement Agreement) may not exceed 2% of a Class Member’s Final Track A Award.

21. For purposes of effectuating the Settlement Agreement, a “Track B Fee” (as defined in the Settlement Agreement) may not exceed 8% of a Class Member’s Final Track B Award.

PRELIMINARY APPROVAL OF THE FEE AWARD

22. The Court finds that a Fee Award (as defined in the Settlement Agreement) of between 4.1% and 7.4% of the Fee Base (as defined in the Settlement Agreement) appears to be a fair, reasonable, and adequate range for a Fee Award in this action, and this range therefore is preliminarily approved for purposes of providing Notice to the Class.

EXISTING RETAINER AGREEMENTS

23. No counsel who is designated as Class Counsel by this Order shall seek to enforce the terms of any existing contingency fee arrangements with Class Members.

24. Any counsel who is not designated as Class Counsel and who is retained by a member of the Class to represent such an individual for a Track A claim under the Settlement Agreement shall be limited to a 2% contingency fee.

25. Any counsel who is retained by a member of the Class to represent such an individual for a Track B claim under the Settlement Agreement shall be limited to an 8% contingency fee.

FINAL APPROVAL HEARING: RIGHT TO APPEAR AND OBJECT

26. A Final Approval Hearing shall take place before the Court on _____, 2011, at ____ a.m. [p.m.] before the Honorable Paul L. Friedman, at the United States District Court for the District of Columbia, 333 Constitution Avenue, N.W., Washington, D.C. 20001 to determine whether the Settlement Agreement should be finally approved by this Court as fair, reasonable, and adequate.

27. The Court may finally approve the Settlement Agreement at or after the Final Approval Hearing with any appropriate modifications agreed to by the Parties and without further notice to the Class Members.

28. Any Class Member wishing to raise objections to the Settlement Agreement that the Court may consider before Final Approval of the Settlement Agreement must adhere to the following process for submitting such objections:

- a. Any member of the Class may present written objections explaining why the Settlement Agreement should not be approved as fair, reasonable, and adequate, or why attorneys' fees and expenses to Class Counsel should not be awarded in the amounts requested. Any Class Member who wishes to object to any aspect of the Settlement Agreement must, no later than _____, 2011 (45 days prior to Final Approval Hearing), file a written statement of the objection(s) with the Court and serve such objection(s) on Lead Class Counsel and Defendant's Counsel either by (a) ECF filing with the Court or (b) first-class mail plus fax and/or electronic mail. The written statement of the objection(s) must include (1) a statement explaining the basis for the objector's belief that he or she is a Class

Member and eligible for relief under the Settlement Agreement; (2) a detailed statement of the Class Member's objection(s), as well as the specific reasons, if any, for each objection, including any evidence and legal authority the Class Member wishes to bring to the Court's attention and any evidence the Class Member wishes to introduce in support of his or her objection(s); (3) the Class Member's name, address, and telephone number; and (4) any other supporting papers, materials, or briefs the Class Member wishes the Court to consider when reviewing the objection.

- b. Class Members may raise an objection either on their own or through an attorney hired at their own expense. If a Class Member hires an attorney to represent him or her for purposes of filing an objection, the attorney must: (1) file a notice of appearance with the Clerk of Court no later than thirty (30) days prior to the Final Approval Hearing Date; (2) include with the notice of appearance a statement identifying all other class action cases in which the attorney has appeared either as counsel on behalf of an objecting class member or as lead counsel on behalf of a class, including the case style, case number, and court; (3) include with the notice of appearance, a statement detailing the ultimate disposition of any objection filed by the attorney in any class action case and describe whether the objection was resolved for a payment of fees with no alteration to the underlying class action settlement agreement or, in the event the objection was resolved with an enhancement to the underlying class action settlement agreement, describe those enhancements and how the class

action settlement was modified; and (4) serve a copy of the notice and statements on Lead Class Counsel and Defendant's Counsel by (a) ECF filing with the Court or (b) first-class mail plus either fax and/or electronic mail at least thirty (30) days prior to the Final Approval Hearing Date.

- c. Class Members, or their attorneys, who wish to appear at the Fairness Hearing must file with the Court and serve on Lead Class Counsel and Defendant's Counsel, by (1) ECF filing with the Court or (2) first-class mail plus either fax and/or electronic mail, at least thirty (30) days prior to the Final Approval Hearing Date a notice of their intention to appear at the Fairness Hearing.
- d. Any Class Member who fails to comply with the provisions of the preceding subsections shall waive and forfeit any and all rights he or she may have to object to the Settlement Agreement, and shall be bound by all the terms of this Settlement Agreement and by all proceedings, orders, and judgments in the litigation.

29. The Court may adjourn the Final Approval Hearing, or any subsequent hearings, including the consideration of the application for attorneys' fees, costs, and expenses, without any additional notice to putative Class Members other than an announcement in open court.

**ORDER REGARDING LISTS AND MATERIAL
RECEIVED FROM THE *PIGFORD* FACILITATOR**

30. For the purpose of allowing Lead Class Counsel to fulfill its duties under Sections VIII.A.3 and VIII.A.4 of the Settlement Agreement, the *Pigford* Facilitator is hereby directed to provide to Lead Class Counsel a current version of the *Pigford* Timely 5(g) List, the *Pigford* Participants List, and the *Pigford* Opt-Out List (collectively, the "*Pigford* Lists"), and copies of

all late-filing requests and all other available information and correspondence regarding the late-filing status of Class Members, including any lists prepared by the *Pigford* Facilitator reflecting such status (collectively, “5(g) Communications”).

31. The *Pigford* Lists and 5(g) Communications may be used by Class Counsel or other counsel only for the purposes set forth in the Settlement Agreement. Accordingly,

- a. Counsel other than Class Counsel may not use the *Pigford* Lists and/or 5(g) Communications to communicate with individuals unless such individuals were represented by the contacting counsel prior to disclosure of the list;
- b. Class Counsel or other counsel may use the *Pigford* Lists and/or 5(g) Communications to determine whether a particular individual is eligible to pursue a claim in the non-judicial claims process delineated in Section V of the Settlement Agreement;
- c. Upon request, Lead Class Counsel shall provide verification to a claimant under the Settlement Agreement and, if applicable, his or her counsel, that the claimant’s name appears on the *Pigford* Lists;
- d. Upon request, Lead Class Counsel shall transmit to each claimant and his or her counsel within thirty (30) days of such request all 5(g) Communications regarding that claimant, provided that the claimant or his or her counsel has provided written certification in writing that he or she will comply with the terms of this Order and other protective orders entered by this Court;

- e. No information in the *Pigford* Lists and/or 5(g) Communications will be disclosed by Class Counsel or other counsel to any other person or entity, including any farmers' advocacy organizations, for recruitment, recruitment-related, or any other purposes;
- f. Lead Class Counsel shall transmit an electronic copy of the *Pigford* Lists to all Class Counsel within ten (10) days of receipt of such lists from the *Pigford* Facilitator;
- g. Each copy of the *Pigford* Lists provided to Class Counsel shall be stamped "PRODUCED SUBJECT TO PROTECTIVE ORDER;"

32. Nothing in this Order shall restrict in any way the ability of Class Counsel in *Pigford v. Glickman* to fulfill their duties as Class Counsel in that action; and

33. Nothing in this Order shall restrict in any way the Defendant's use of the *Pigford* Lists or 5(g) Communications.

34. This Court's Order on December 23, 2008, entitled "Protective Order Regarding '5(g) List'" (Docket No. 34) is hereby withdrawn.

OTHER PROVISIONS

35. The Parties are authorized to communicate with putative Class Members regarding the provisions of the Settlement Agreement so long as such communications are not inconsistent with the Settlement Agreement. The Secretary shall refer to the toll-free telephone number operated by the Claims Administrator any inquiries from putative Class Members about claims to be filed under the Settlement Agreement.

36. Neither the fact of settlement, nor the Settlement Agreement, nor any provision therein, nor any negotiations, statements, or proceedings in connection therewith, shall be

construed as, or be deemed to be evidence of, an admission or concession on the part of any of the Representative Plaintiffs, Class Counsel, any putative Class Members, the Secretary, or the United States of any liability or wrongdoing by them, or that the claims and defenses that have been, or could have been, asserted in *In re Black Farmers Discrimination Litigation* were or were not meritorious.

SO ORDERED.

PAUL L. FRIEDMAN
United States District Judge

DATE: _____, 2011

EXHIBIT 2

to the

**Memorandum of Points and Authorities in Support of
Plaintiffs' Motion for Preliminary Approval of Settlement,
Certification of a Rule 23(b)(1)(B) Class,
And for Other Purposes**

In re Black Farmers Discrimination Litigation
Case No. 08-mc-0511-PLF (D.D.C.)

Settlement Agreement

February 18, 2010
(Revised and Executed as of March 23, 2011)

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SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into between the Signatory Plaintiffs, by and through Signatory Plaintiffs’ Counsel, and the Secretary of the U.S. Department of Agriculture (“the Secretary” or “USDA”), by and through the Secretary’s Counsel, to resolve, fully and forever, the claims raised or that could have been raised in the cases consolidated in *In re Black Farmers Discrimination Litigation*, No. 08-mc-511 (D.D.C.), including, but not limited to, the claims asserted under Public Law No. 110-234 and/or 110-246, § 14012 (2008).

I. RECITALS

- A. In 1997, a putative class of African-American farmers brought suit against USDA under, *inter alia*, the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f, for alleged discriminatory actions in the acquisition of farm credit, credit servicing, and non-credit farm benefits. This case was called *Pigford v. Glickman*, No. 97-1978 (D.D.C.) (“*Pigford*”).
- B. On January 5, 1999, the Court in *Pigford* certified the following Class pursuant to Federal Rule of Civil Procedure 23(b)(3):

All African American farmers who (1) farmed, or attempted to farm, between January 1, 1981 and December 31, 1996; (2) applied to [USDA] during that time period for participation in a federal farm credit or benefit program and who believed that they were discriminated against on the basis of race in USDA’s response to that application; and (3) filed a discrimination complaint on or before July 1, 1997, regarding USDA’s treatment of such farm credit or benefit application.
- C. After notice and an opportunity to be heard by all *Pigford* Class Members, on April 14, 1999, the Court approved the terms of a Consent Decree which provided the Class Members with a choice of non-judicial processes (*i.e.*, “Track A” or “Track B”) for resolving their discrimination claims.
- D. The *Pigford* Consent Decree directed that *Pigford* Class Members who did not opt out of the Class would have 180 days from entry of the Decree in which to submit completed claim packages. An extension of this deadline until September 15, 2000, was available under Section 5(g) of the Consent Decree (“Section 5(g)”), but only where a Class Member could show that his or her late filing was due to “extraordinary circumstances” beyond the Class Member’s control.
- E. Approximately 20,000 individuals filed claims under the *Pigford* Consent Decree within the 180-day deadline, which was October 12, 1999. On or after October

13, 1999, and on or before September 15, 2000, approximately 61,000 additional individuals sought to participate in the Decree's claim resolution processes pursuant to Section 5(g). Approximately 2,700 of these individuals were deemed to satisfy the "extraordinary circumstances" test and were permitted to participate in the claim resolution processes. Between September 16, 2000, and June 18, 2008, thousands of additional individuals unsuccessfully sought to participate.

- F. Notwithstanding that more than 60,000 individuals were denied participation under the *Pigford* Consent Decree, and if *Pigford* Class Members, were bound by the Decree and deemed to have waived and released all claims against USDA that were or could have been raised in *Pigford*, on May 22, 2008, and again on June 18, 2008, Congress created a new cause of action in Section 14012 of the Food, Conservation, and Energy Act of 2008 for such individuals.
- G. Section 14012(i)(1) designates \$100,000,000 to pay meritorious Section 14012 claims.
- H. Section 14012(d) provides that "[i]t is the intent of Congress that [Section 14012] be liberally construed so as to effectuate its remedial purpose of giving a full determination on the merits for each *Pigford* claim previously denied that determination."
- I. Section 14012(f) further provides for "expedited resolutions" whereby a person filing a complaint under Section 14012 "may seek liquidated damages of \$50,000, discharge of the debt that was incurred under, or affected by, the 1 or more programs that were the subject of the 1 or more discrimination claims that are the subject of the person's complaint, and a tax payment in the amount equal to 25 percent of the liquidated damages and loan principal discharged[;]" while Section 14012(g) provides an action whereby a plaintiff may seek "actual damages sustained."
- J. On November 30, 2010 and December 8, 2010 respectively, Congress passed and the President signed into law Pub. L. 111-291, which provided an additional \$1,150,000,000 "to carry out the terms of [this] Settlement Agreement."
- K. As of January 1, 2011, more than 40,000 plaintiffs had filed individual claims under § 14012 in 23 complaints in the U.S. District Court for the District of Columbia, which have been consolidated under this caption in the Consolidated Case.
- L. In order to bring the Consolidated Case to a close FOREVER and FINALLY, the Parties have determined to settle the Consolidated Case, including all claims that the proposed Class and Class Members have brought or could have brought in the

Consolidated Case, and including all claims that have been or could have been brought under Section 14012.

- M. The Signatory Plaintiffs believe that the terms of this Agreement are fair, reasonable, and adequate; that this Agreement provides substantial benefits to the proposed Class and the Class Members; and that settlement of the Consolidated Case on the terms set forth in this Agreement is in the best interests of the proposed Class and the Class Members. Signatory Plaintiffs recognize that the amount of the funding for the Settlement may not be sufficient to provide recovery in the full amount contemplated for successful Claimants by Section 14012, and that the amount actually recovered by each successful Claimant will depend on the amount of funding appropriated and the number of successful Class Members.
- N. The Secretary expressly denies any wrongdoing, as alleged in the Consolidated Case or otherwise, and does not admit or concede any actual or potential fault, wrongdoing or liability in connection with any facts or claims that have been or could have been alleged in the Consolidated Case. Nonetheless, the Secretary considers it desirable to settle the Consolidated Case on the terms set forth in this Agreement because it will avoid disruption to USDA due to the pendency and defense of the Consolidated Case, and it will avoid the substantial expense, burdens, and uncertainties associated with litigation of the Consolidated Case.
- O. Accordingly, the purpose of this Agreement is to make a full, complete, and final resolution of all claims and causes of action that have been or could have been asserted against the Secretary by the proposed Class and the Class Members in the Consolidated Case arising out of the conduct alleged therein.
- P. NOW, THEREFORE, in reliance on the mutual promises, covenants, releases, and obligations as set out in this Agreement, and for good and valuable consideration, the Parties hereby stipulate and agree to resolve all claims that were or could have been at issue in this matter.

II. DEFINITIONS

Unless otherwise noted, as used in this Agreement:

- A. “2008 Funds” are the funds (\$100,000,000) designated by Congress in Public Law No. 110-234 and/or 110-246, § 14012(i)(1) (2008).
- B. “2010 Funds” are the funds (\$1,150,000,000) designated by Congress in Public Law No. 111-291, § 201 (2010).

- C. A “Claimant” is any individual who submits a claim and/or seeks an award under this Agreement.
- D. The “Claim Deadline” is 180 calendar days from the Final Approval Date.
- E. A “Claim Determination” is the binding and final result of Track A and Track B and represents whether, and what amount, a Class Member is eligible to receive as a result of the Non-Judicial Claims Process.
- F. The “Claims Administrator” is an administrator approved by the Court and hired by Lead Class Counsel to determine whether individual claimants are members of the Class, to make payments to meritorious Class Members and counsel in accordance with this Agreement, and to conduct other duties as assigned to the Claims Administrator under this Agreement.
- G. “Common Benefit Fees” are reasonable attorneys’ fees, expenses, and costs for the work Class Counsel perform on behalf of the Class as a whole both before and after execution of this Agreement, including negotiation of this Agreement, and the work Class Counsel agrees to perform on behalf of the Class as a whole as set forth in this Agreement. Common Benefit Fees do not include Track A Individual Counsel Fees, Track B Fees, or fees for work performed on behalf of individual Class Members who prevail under Track B.
- H. “Consolidated Case” refers to the complaints consolidated in *In re Black Farmers Discrimination Litigation*, No. 08-mc-511 (D.D.C.).
- I. The “Cost Cap” is \$35,000,000, and represents the maximum amount of Implementation Costs that Class Counsel may pay out of the funds provided by the Secretary under this Agreement; provided, however, that upon application of Class Counsel, the Court may approve the payment of up to \$3,500,000 out of the 2008 Funds in reasonable additional fees and costs above the Cost Cap incurred by the Track A Neutrals, the Track B Neutrals, and/or the Claims Administrator arising out of the reporting requirements and/or the audit provisions of Section 201(h) of Pub. L. No. 111-291.
- J. “Designated Account” means a bank account, set up by Class Counsel and held for the benefit of the Class, at a Designated Bank that is (1) insured by the Federal Deposit Insurance Corporation up to the applicable limits, (2) a segregated trust account that is not subject to claims of a bank’s creditors, or (3) invested in U.S. Treasury securities.

- K. “Designated Bank” means a bank that has a Veribanc (www.veribanc.com) rating of Green with three stars and one for which neither the bank nor any of its senior officers appear in the Excluded Parties List System (www.epls.gov), which is a list of entities and individuals suspended or debarred from doing business with the federal government.
- L. “Effective Date” is the date upon which, if the Agreement is not voided under Section XI, an order providing final approval of this Agreement under Federal Rule of Civil Procedure 23(e) becomes non-appealable, or, in the event of any appeals, upon the date of final resolution of said appeals. When this Agreement refers to the date on which the Agreement became “Effective,” such date is the Effective Date.
- M. “Execution Date” is March 23, 2011.
- N. “Fee Award” is the total amount approved by the Court for the payment of Common Benefit Fees and Track B Fees.
- O. “Fee Base” is the sum of the 2008 Funds plus any 2010 Funds minus \$22,500,000.
- P. “FSA” is the Farm Service Agency, an agency of USDA.
- Q. “Final Approval Date” is the date on which the Court enters an order providing final approval of this Agreement under Federal Rule of Civil Procedure 23(e).
- R. “Implementation Costs” are the Court-approved administrative costs associated with implementing this Agreement, including the fees and costs of the Track A and Track B Neutrals, the Claims Administrator, costs incurred under Section VIII.A.3, and the costs necessary to provide notice of this Agreement to the Class. With the exception of the costs incurred under Section VIII.A.3, Implementation Costs do not include (1) attorneys’ fees, costs, and expenses, (2) the costs and expenses associated with preparing and/or submitting claims on behalf of individual Claimants, (3) the fees, expenses, and costs of the Ombudsman (“Ombudsman Costs”), and (4) costs and expenses incurred by Class Counsel in the performance of their duties under this Agreement.
- S. “Individual Counsel” are counsel, other than Class Counsel, retained by Claimants to represent them in the Non-Judicial Claims Process.

- T. “Late-Filing Request” is a written request to the Court, the *Pigford* Facilitator, the *Pigford* Monitor, the *Pigford* Adjudicator, or the *Pigford* Arbitrator seeking to participate in the claims resolution processes in the *Pigford* Consent Decree.
- U. “Multiple Claimants” are partners, shareholders, or family members operating a single farming operation.
- V. “Ombudsman Costs” are fees, costs, and expenses paid to the Ombudsman out of the 2008 Funds, subject to approval by the Court, for performance of his or her duties under this Agreement.
- W. “Parties” means the Signatory Plaintiffs and the Secretary.
- X. “*Pigford*” means *Pigford v. Glickman*, Nos. 97-1978, 98-1693 (D.D.C.).
- Y. “*Pigford* Consent Decree” is the April 14, 1999 Consent Decree entered in *Pigford*.
- Z. “*Pigford* Opt-Out List” is a list maintained or prepared by the *Pigford* Facilitator that identifies those individuals who the *Pigford* Facilitator has determined opted out of the *Pigford* Consent Decree pursuant to Section 2(b) of the Decree.
- AA. “*Pigford* Participants List” is a list maintained or prepared by the *Pigford* Facilitator that identifies those individuals who the *Pigford* Facilitator has determined (1) submitted a claim under the *Pigford* Consent Decree on or before October 12, 1999, or (2) submitted a Late-Filing Request under 5(g) of the *Pigford* Consent Decree after October 12, 1999, which was determined by the *Pigford* Arbitrator to satisfy the “extraordinary circumstances” requirement.
- BB. “*Pigford* Timely 5(g) List” is a list maintained or prepared by the *Pigford* Facilitator that identifies those individuals who the *Pigford* Facilitator has determined submitted Late-Filing Requests under Section 5(g) of the *Pigford* Consent Decree after October 12, 1999, and on or before September 15, 2000.
- CC. “Preliminary Approval Date” is the date on which the Court enters a Preliminary Approval Order.
- DD. “Preliminary Final Accounting Date” is the date that the Secretary receives the Preliminary Final Accounting provided for in Section V.E.7.

- EE. The “Secretary” is, individually and collectively, Thomas Vilsack, in his official capacity as Secretary of USDA, his successors as Secretary of USDA, USDA, its agencies, instrumentalities, agents, officers, and employees.
- FF. The “Secretary’s Counsel” is the U.S. Department of Justice.
- GG. “Section [or §] 14012” means Public Law No. 110-234 and/or 110-246, § 14012 (2008).
- HH. “Signatory Plaintiffs” are the individuals who have filed claims in any of the complaints consolidated into the Consolidated Case as of February 18, 2010 with the exception of the complaints captioned *Beckley v. Vilsack*, No. 09-1019 (D.D.C.); *Edwards v. Vilsack*, No. 10-465 (D.D.C.); *Latham v. Vilsack*, No. 10-737 (D.D.C.); *Andrews v. Vilsack*, No. 10-801 (D.D.C.); and *Johnson v. Vilsack*, No. 10-839 (D.D.C.).
- II. “Track A Individual Counsel Fee” is a fee negotiated between a Claimant and his or her Individual Counsel, subject to a cap set by the Court, which the Claimant agrees to pay to Individual Counsel if he or she obtains a Track A Award and which Individual Counsel agrees to accept in full satisfaction for the fees, expenses, or costs associated with work performed on behalf of the Claimant in obtaining that Award.
- JJ. “Track A Neutral” is an adjudicator hired by Lead Class Counsel and approved by the Court, the Secretary, and the Attorney General to determine the merits of the claims submitted under Track A and conduct other duties as assigned under this Agreement. Prior to determining any claims, each Track A Neutral must take an oath administered by the Court that he or she will determine each claim faithfully, fairly, and to the best of his or her ability.
- KK. “Track A Award” is a combination of a Track A Liquidated Award, a Track A Tax Award, and a Track A Loan Award, if applicable. A “Provisional” Track A Award refers to the amount specified in Part V of a Track A Determination Form. A “Final” Track A Award refers to the amount specified in Part III of a Track A Determination Form. *Track A Awards are subject to reduction based on the amount of available funds and the number of meritorious claims.*
- LL. “Track A Liquidated Award” is \$50,000 per Class Member for credit claims, regardless of the number of the Class Member’s prevailing claims, and \$3,000 per Class Member for non-credit claims, regardless of the number of the Class Member’s prevailing claims. A “Provisional” Track A Liquidated Award refers to the amount specified in Part V of a Track A Determination Form. A “Final” Track A Liquidated Award refers to the amount specified in Part III of a Track A

Determination Form. *Track A Liquidated Awards are subject to reduction based on the amount of available funds and number of meritorious claims.*

MM. “Track A Loan Award” is the amount of a Class Member’s outstanding debt as of the date certain specified in Section V.B.6 incurred under the following FSA Farm Loan Program loans:

1. Those that form the basis of a Class Member’s prevailing credit claim (“Prevailing Loan”);
2. Those that: (a) were part of the same loan program as the Prevailing Loan; (b) originated at the same time or subsequent to the Prevailing Loan but prior to January 1, 1997; and (c) are not the subject of an adverse administrative decision that has become final or an adverse federal or state court judgment that has become final (collectively “Related Loan”); and
3. Those that have been consolidated with or restructured into a new loan that includes either a Prevailing Loan or a Related Loan.

A “Provisional” Track A Loan Award refers to the amount specified in Part V of a Track A Determination Form. A “Final” Track A Loan Award refers to the amount specified in Part III of a Track A Determination Form. *Track A Loan Awards are subject to reduction based on the amount of available funds and number of meritorious claims.*

NN. “Track A Tax Award” is an award made in recognition of a Class Member’s expected tax liability in an amount equal to 25% of the Class Member’s Track A Liquidated Award and 25% of the principal amount of the Class Member’s Track A Loan Award, if applicable. A “Provisional” Track A Tax Award refers to the amount specified in Part V of a Track A Determination Form. A “Final” Track A Tax Award refers to the amount specified in Part III of a Track A Determination Form. *Track A Tax Awards are subject to reduction based on the amount of available funds and number of meritorious claims.*

OO. “Track B Award” is the amount of actual damages, up to \$250,000, for which the Track B Neutral determines that a Class Member is eligible under the applicable standards for Track B. A “Provisional” Track B Award refers to the amount specified in Part V of a Track B Determination Form. A “Final” Track B Award refers to the amount specified in Part III of a Track B Determination Form. *Track B Awards are subject to reductions based on the amount of available funds and number of meritorious claims.*

- PP. “Track B Cap” is \$100,000,000.
- QQ. “Track B Fee” is a fee negotiated between a Claimant and his or her Counsel, whether Class Counsel or Individual Counsel, subject to a cap set by the Court, which the Claimant agrees to pay if he or she obtains a Track B Award and which Counsel agrees to accept in full satisfaction for the fees, expenses, or costs associated with work performed on behalf of the individual Claimant in obtaining that Award.
- RR. “Track B Neutral” is an adjudicator hired by Lead Class Counsel and approved by the Court, the Secretary, and the Attorney General to determine the merits of the claims submitted under Track B. Prior to determining any claims, each Track B Neutral must take an oath administered by the Court that he or she will determine each claim faithfully, fairly, and to the best of his or her ability.
- SS. The “United States” is, individually and collectively, the Executive Branch of the United States, its agencies, instrumentalities, agents, officers, and employees.

III. THE SETTLEMENT CLASS

- A. The Parties agree, for purposes of this Agreement only, to the following Federal Rule of Civil Procedure 23(b)(1), non-opt-out class:

All individuals: (1) who submitted Late-Filing Requests under Section 5(g) of the *Pigford v. Glickman* Consent Decree on or after October 13, 1999, and on or before June 18, 2008; but (2) who have not obtained a determination on the merits of their discrimination complaints, as defined by Section 1(h) of the Consent Decree.

Where used in this Agreement, the “Class” refers, individually and collectively, to the Class Representatives, the Class, and each Member of the Class as well as their heirs, administrators, personal representatives, successors, and/or assigns.

- B. In accordance with the terms of this Agreement, the Signatory Plaintiffs will move for certification of this Settlement Class, for appointment of some of the Signatory Plaintiffs as the Class Representatives, for appointment of Class Counsel, and for designation of specific counsel from among Class Counsel to serve as Lead Class Counsel and members of the Plaintiffs’ Steering Committee.

IV. DISMISSAL AND FUNDING

- A. The Class agrees to the dismissal of all actions pending in the Consolidated Case with prejudice under Federal Rules of Civil Procedure 41(a)(1) and 23(e). In

accordance with the terms of this Agreement, the Signatory Plaintiffs will move for dismissal, with prejudice, of all actions pending in the Consolidated Case, to be effective on the Final Approval Date. Notwithstanding such dismissal, the Court shall retain continuing jurisdiction to oversee and enforce this Agreement.

- B. Class Counsel shall, within seven (7) calendar days of the Preliminary Approval Date, notify the Secretary and the Court in writing of the identities of the Designated Account and Designated Bank.
- C. Within thirty (30) calendar days of the Preliminary Approval Date, Class Counsel shall seek approval from the Court for a disbursement of up to \$5,000,000 from the Designated Account for payment of Court-approved interim Implementation Costs provided for in this Agreement. Upon Court approval of this request and in accordance with the Court's Order, the Secretary shall, within twenty (20) days of such approval, provide the U.S. Department of the Treasury with all necessary forms and documentation to direct a payment for the benefit of the Class in accordance with and subject to the following conditions:
 - 1. The Secretary shall make this payment from the 2008 Funds;
 - 2. The payment shall be in an amount ordered by the Court, not to exceed \$5,000,000;
 - 3. The Secretary shall direct the deposit of these funds into the Designated Account. Class Counsel shall provide the Secretary in writing with the information necessary to direct the deposit;
 - 4. Class Counsel shall use these funds solely for Court-approved interim Implementation Costs provided for in this Agreement; and
 - 5. Class Counsel shall provide the Secretary and the Court with quarterly written reports related to the expenditure of the funds provided in this Subsection. The quarterly reports, which may be submitted on the Quarterly Disbursement Reporting Form (Ex. E), shall identify (a) to whom Class Counsel has paid the funds, (b) the amount of such payment, (c) when the funds were paid, and (d) for what purpose the payment has been made, with reference to this Agreement.
- D. If, prior to the Final Approval Date, Class Counsel determines that the amount provided in IV.C is insufficient to cover the Court-approved interim Implementation Costs, Class Counsel may submit additional written requests to the Court for up to \$5,000,000 to be used for interim Implementation Costs,

except that Class Counsel may not request more than \$10,000,000 in aggregate Implementation Costs prior to the Final Approval Date. Upon Court approval of any such request and in accordance with any related Court Order, the Secretary shall, within twenty (20) days of such approval, provide the U.S. Treasury with all necessary forms and documentation to direct a payment for the benefit of the Class in accordance with and subject to the conditions in Section IV.C.

- E. After the Final Approval Date, Class Counsel may submit additional written requests to the Court for additional Court-approved interim Implementation Costs and for Court-approved interim Common Benefit Fees, subject to the following conditions:
1. Class Counsel shall not make more than four requests per calendar year, shall not seek more than \$5,000,000 per request, and must submit, with each request, evidence that the Designated Account has been or will be depleted; and
 2. Class Counsel shall make no request that would cause the sum of interim Implementation Costs and interim Common Benefit Fees paid by the Secretary under this Agreement to exceed \$20,000,000.
- F. Upon Court approval of any request in Section IV.E and in accordance with any related Court Order, the Secretary shall, within twenty (20) days of such approval, provide the U.S. Department of the Treasury with all necessary forms and documentation to direct the payment of the requested funds, for the benefit of the Class, in accordance with and subject to the following conditions:
1. The Secretary shall make these payments from the 2008 Funds;
 2. The total of all interim Implementation Costs and interim Common Benefit Fees under Sections IV.C, IV.D, and IV.F shall not exceed \$20,000,000;
 3. The Secretary shall direct the deposit of these funds into the Designated Account. Class Counsel shall provide the Secretary in writing with the information necessary to direct the deposit;
 4. These funds shall be used solely for Court-approved interim Implementation Costs and Court-approved interim Common Benefit Fees provided for in this Agreement. Any Court-approved Common Benefit Fees may be paid only to those counsel who have incurred fees to date for

work performed on behalf of the Class as a whole, including negotiation of this Agreement; and

5. Class Counsel shall provide the Secretary and the Court with quarterly written reports related to the expenditure of the funds provided in this Subsection. The quarterly reports, which may be submitted on the Quarterly Disbursement Reporting Form (Ex. E), shall identify (a) to whom Class Counsel has paid the funds, (b) the amount of such payment, (c) when the funds were paid, and (d) for what purpose the payment has been made, with reference to this Agreement. For the expenditure of interim Common Benefit Fees, the report must also identify the specific work performed to merit the payment of interim fees.

G. At any point after Preliminary Approval of the Settlement Agreement, the Court may order payment of Ombudsman Costs, as defined in Section VI.A of this Agreement. Within twenty (20) days of any such Court Order, the Secretary shall provide the U.S. Department of the Treasury with all necessary forms and documentation to direct a payment to the Designated Account for the fees and expenses of the Ombudsman, subject to the following conditions:

1. Any payment to the Ombudsman made before the Preliminary Final Accounting Date shall be paid from the 2008 Funds;
2. Any payment to the Ombudsman shall be for fees and expenses incurred or expected to be incurred in the performance of the Ombudsman's duties under Section VI of this Agreement;
3. The Ombudsman shall provide Class Counsel, the Secretary, and the Court with quarterly written reports identifying his or her fees and expenses, as related to the expenditure of the funds provided in this Subsection.

H. Within thirty (30) days of the Preliminary Final Accounting Date or the Effective Date, whichever is later, Class Counsel shall seek approval from the Court for a payment for the benefit of the Class equal to the lesser of (1) the 2010 Funds plus any remaining 2008 Funds, or (2) the sum, as set forth in the Preliminary Final Accounting in Section V.E.7, of (a) all Final Track A Liquidated Awards, Final Track A Loan Awards, and Final Track A Tax Awards, (b) all Final Track B Awards, (c) the incurred and estimated final Implementation Costs up to the Cost Cap as approved by the Court, (d) the incurred and estimated final Ombudsman Costs approved by the Court, and (e) the Fee Award approved by the Court minus the sum of Track B Fees incurred by Track B Class Members, minus any amounts the Secretary has already paid under Sections IV.C, IV.D, IV.F, and IV.G. Within twenty (20) days of Court approval of this request and in accordance with

the Court's Order, the Secretary shall provide the U.S. Department of the Treasury with all necessary forms and documentation to direct a payment in the amount the Court approves in accordance with and subject to the following conditions:

1. The Secretary shall direct the deposit of these funds into the Designated Account. Class Counsel shall provide the Secretary in writing with the information necessary to direct the deposit;
 2. These funds shall be used solely to pay (a) Final Track A Liquidated Awards, Final Track A Loan Awards, Final Track A Tax Awards, and Final Track B Awards to or on behalf of Class Members pursuant to the Non-Judicial Claims Process (Section V); (b) Common Benefit Fees approved by the Court; (c) Track B Fees; (d) reasonable and compensable Court-approved Implementation Costs; (e) reasonable and compensable Court-approved Ombudsman Costs; and (f) if applicable, any leftover funds to Cy Pres Beneficiaries, as specified in Section V.E.13 and approved by the Court; and
 3. Class Counsel shall provide the Secretary and the Court with written quarterly reports related to the expenditure of the funds provided in this Subsection. The quarterly reports, which may be submitted on the Quarterly Disbursement Reporting Form (Ex. E), shall identify (a) to whom Class Counsel has paid the funds, (b) the amount of such payment, (c) when the funds were paid, and (d) for what purpose the payment has been made, with reference to this Agreement. If Class Counsel has expended funds to pay Final Track A Liquidated Awards, Final Track A Loan Awards, Final Track A Tax Awards, and Final Track B Awards during the reporting period, Class Counsel shall also identify the number of such awards.
- I. Any funds other than 2008 Funds or 2010 Funds are outside the scope of this Agreement and the scope of the payment obligations of the Secretary and/or the United States under this Agreement and shall not be paid by the Secretary and/or the United States to the Class or Class Counsel under this Agreement.
 - J. Once the funds paid by the Secretary under this Agreement are deposited into the Designated Account, the Secretary has no liability whatsoever for the protection or safeguard of the deposited funds, regardless of bank failure, fraudulent transfers, or any other fraud or misuse of the funds.

- K. Nothing in this Agreement shall limit in any way the duties owed by Class Counsel to the Class under any applicable law, including any law governing counsel's management or handling of client funds.
- L. The funds that the Secretary pays pursuant to this Agreement are inclusive of damages and other monetary relief, attorneys' fees, expenses, costs, tax payments, payments in recognition of outstanding FSA Farm Loan Program debt, interest, and costs, and are the only funds that will be paid by the Secretary under this Agreement.
- M. Other than the funds specified in this Agreement, no other funds, including those from the Judgment Fund, 31 U.S.C. § 1304, the Commodity Credit Corporation, or from the Salaries and Expenses Account of USDA or any of its agencies shall be available for any purpose related to this Agreement, except by the Secretary for purposes of satisfying his duties under this Agreement.
- N. The binding effect and implementation of this Agreement is not contingent in any way upon the provision by Congress of any funds. The Class Representatives and the Class acknowledge that Congress is not obligated to appropriate any additional funds.
- O. The limitations on funding in this Agreement apply notwithstanding a determination by the Class Representatives, the Class, or Class Counsel that the funds made available under this Agreement are inadequate to pay claims submitted pursuant to the Non-Judicial Claims Process (Section V), attorneys' fees, expenses, and costs incurred under this Agreement, and/or Implementation Costs incurred under this Agreement.
- P. The Secretary and/or the United States shall not be liable to pay the Claims Administrator, the Pigford Facilitator, the Track A Neutral, the Track B Neutral, the Ombudsman, or any of their employees and agents. Subject to the Cost Cap, all fees, costs, and expenses incurred by the Claims Administrator, the Neutrals and their employees and agents shall be paid from the Designated Account as Implementation Costs. All fees, costs, and expenses incurred by the Ombudsman shall be paid from the Designated Account as Ombudsman Costs.
- Q. The Class Representatives, the Class, and/or Class Counsel may not terminate this Agreement because the Class Representatives, the Class, and/or Class Counsel assert that the Cost Cap is inadequate, and neither the Class Representatives nor Class Counsel shall be permitted to amend, alter, or reduce their obligations and duties under this Agreement in any manner. The Class Representatives and Class Counsel agree to continue with implementation of this Agreement notwithstanding the amount of Implementation Costs incurred under this

Agreement. The Secretary shall have no responsibility for Implementation Costs above the Cost Cap.

- R. Nothing in this Agreement shall preclude the Class, the Secretary and/or the United States from seeking additional funds from Congress for purposes of this Agreement. The Secretary and/or the United States, however, are not obligated to seek any additional funds, support any legislation, or refrain from opposing any additional funds or legislation. The binding effect and implementation of this Agreement are not contingent in any way upon the interactions between the Secretary and/or the United States and Congress.
- S. The Class Members will have sole responsibility to comply with their own applicable federal, state, and local tax requirements that arise as a result of this Agreement. Class Counsel will have sole responsibility to comply with their own applicable federal, state, and local tax requirements that arise as a result of this Agreement.

V. NON-JUDICIAL CLAIMS PROCESS

To obtain relief under this Settlement, Claimants must be Class Members and have their claims determined to be meritorious under one of two tracks – (1) Track A, which tests claims against a lower “substantial evidence” standard of proof, and awards successful claimants with a liquidated payment of up to \$50,000 for credit claims and/or up to \$3,000 for non-credit claims, a payment in recognition of outstanding debt owed to USDA/FSA, and a payment to offset tax liability from these awards; or (2) Track B, which tests claims against a higher “preponderance of the evidence” standard of proof, and provides awards to successful Claimants in the amount of their actual damages up to \$250,000, subject to the Track B Cap.

Each of these awards is subject to reduction based on the amount of available funds and the number of meritorious claims.

A. GENERAL REQUIREMENTS

- 1. To obtain a Claim Determination under this Agreement, a Claimant must be a Class Member and must submit a Complete Claim Package to the Claims Administrator by the Claim Deadline (180 days from the Final Approval Date). A “Complete Claim Package” must include:
 - a. A completed Claim Form (Ex. C), including the Claimant’s declaration, under penalty of perjury, that each of the statements provided by the Claimant is true and correct;

- b. For a Track A Claimant who seeks a Track A Loan Award, a statement that the Claimant seeks such an award and an executed Authorization to Disclose Debt Information Form (Ex. D);
- c. A declaration by the Claimant's Counsel, whether Class Counsel or Individual Counsel, made under penalty of perjury, that to the best of the attorney's knowledge, information, and belief formed after an inquiry reasonable under the circumstances, the claim is supported by existing law and the factual contentions have evidentiary support. For Claimants proceeding without counsel, the declaration on the Claim Form (Ex. C) is sufficient to satisfy this requirement;
- d. For a Claimant who is deceased, (a) a death certificate and (b) either (i) proof of legal representation, or (ii) a sworn statement describing why the submitting individual believes he or she will be appointed the legal representative of the Claimant's estate; and
- e. For a Claimant unable to submit a claim on his or her own behalf due to a physical or mental limitation, (a) proof of legal representation or (b) a sworn statement describing why the Claimant is unable to submit a claim on his or her own behalf and why the submitting individual asserts a right to do so on the Claimant's behalf.

The submission date of the Claim Package shall be the date of postmark if the Claim Package is sent via first-class mail, the date of deposit if sent by courier or overnight delivery, and the date of transmission if sent electronically.

- 2. A Claimant may be represented in this Claims Process by Class Counsel or Individual Counsel, or the Claimant may submit a claim without counsel. A Track A Claimant shall be represented at no additional charge by Class Counsel, unless that Claimant elects to be represented by Individual Counsel or elects to submit a claim without counsel. For Track A, if a Claimant elects to be represented by Individual Counsel, the Claimant must make separate arrangements to pay Individual Counsel, subject to the terms of this Agreement and the cap on Track A Individual Counsel Fees set by the Court. For Track B, if a Claimant elects to be represented by either Class Counsel or Individual Counsel, the Claimant must make separate arrangements to pay Class Counsel or Individual Counsel, subject to the terms of this Agreement and the cap on Track B Fees set by the Court. An attorney who serves as Individual Counsel

consents to the terms of this Agreement and agrees to abide by all orders of the Court in the Consolidated Case.

3. In the case of a Claimant who is deceased, the legal representative of the Claimant's estate may submit a claim on the Claimant's behalf. If there is no legal representative, any other individual who asserts a right to be the legal representative of the Claimant's estate may submit a claim on the Claimant's behalf. If there is no legal representative and more than one individual submits a claim on behalf of the Claimant, a Track A Neutral or Track B Neutral designated by the Claims Administrator shall decide which of the individuals is entitled to pursue the claim on the Claimant's behalf. If the Claimant prevails, and a legal representative for the Claimant's estate has not yet been appointed, the Claimant's award shall be held for up to one year in a separate account established by Class Counsel for the benefit of the estate until a legal representative to whom the funds may be disbursed is appointed. The Claims Administrator may extend this period upon receipt of proof that a probate petition is pending in the appropriate Court.
4. In the case of a Claimant who is unable to submit a claim on his or her own behalf due to a physical or mental limitation, the Claimant's legal representative may submit a claim on the Claimant's behalf. If there is no legal representative, any other individual who asserts a right to be the legal representative may submit a claim on the Claimant's behalf. If there is no legal representative and more than one individual submits a claim on behalf of an individual who is unable to submit a claim on his or her own behalf, a Track A Neutral or Track B Neutral designated by the Claims Administrator shall decide which of the individuals is entitled to pursue the claim on the Claimant's behalf. If the Claimant prevails, and a legal representative for the Claimant has not yet been appointed, the Claimant's award shall be held for up to one year in a separate account established by Class Counsel for the benefit of the Claimant until a legal representative for the Claimant to whom the funds may be disbursed is appointed. The Claims Administrator may extend this period upon receipt of proof that a petition for appointment of a legal representative for the Claimant is pending in the appropriate Court.
5. Multiple Claimants operating a single farming operation are limited to one claim per farming operation. If Multiple Claimants file more than one claim, the Track A or Track B Neutral, as appropriate, will determine which claimant is entitled to proceed. Only one Track A Liquidated Award, Track A Tax Award, and if applicable, Track A Loan Award or Track B Award will be paid per farming operation.

6. A Claimant's election of Track A is irrevocable and exclusive. A Claimant's election of Track B is irrevocable and exclusive, except as provided in Section V.B.7.
7. Claimants whose claims arise under non-credit benefit programs are required to proceed under Track A.
8. The Class Membership Determinations, Claim Determinations, and any other determinations made under this Section are final and are not reviewable by the Claims Administrator, the Track A Neutral, the Track B Neutral, the Court, or any other party or body, judicial or otherwise. The Class Representatives and the Class agree to forever and finally waive any right to seek review of the Class Membership Determinations, the Claim Determinations, and any other determinations made under this Section.
9. Except as specified in Section V.B.6, the Secretary and/or the United States shall have no role in the non-judicial claims process provided in this Section.
10. The Secretary and/or the United States shall not be liable to pay any Claim Determinations, any Track A Liquidated Awards, Track A Loan Awards, Track A Tax Awards, Track B Awards, or discharge or otherwise satisfy any debt except as provided in Section V.A.12. All Track A Liquidated Awards, Track A Loan Awards, Track A Tax Awards, and Track B Awards shall be paid from the Designated Account.
11. The Secretary and/or the United States shall have no obligation to provide any information, documents, or discovery to the Class, Class Members, or Class Counsel, except as provided in Section V.B.6.
12. The Claims Administrator will make Track A Loan Awards and Track A Tax Awards directly to FSA (for Track A Loan Awards) and the Internal Revenue Service (for Track A Tax Awards) on each prevailing Class Member's behalf and not to the prevailing Class Member. If a Track A Loan Award provided by the Claims Administrator to FSA to reduce or discharge outstanding Farm Loan Program loans held by a prevailing Class Member does not discharge or otherwise satisfy the Class Member's debt in full, interest will continue to accrue unless and until the Class Member repays the loan in full. Subject to the limitations in Section VII, FSA will maintain all available options for servicing and recovering all Farm Loan Program debt from the Class Member, including, but not limited to, acceleration and foreclosure in accordance with the governing regulations.

13. The Claims Administrator shall send all correspondence and all payments to Claimants, Class Members, and/or their Counsel by first-class mail, postage prepaid.
14. Class Counsel, the Claims Administrator, the Ombudsman, and the Neutrals shall take reasonable steps to protect private personal and financial information submitted to them under this Agreement.
15. The Claims Administrator and the Track A and B Neutrals shall report periodically to Lead Class Counsel and the Ombudsman any issues of concern that arise in the course of the execution of their duties.

B. REVIEW OF THE CLAIM SUBMISSION AND THE CLASS MEMBERSHIP DETERMINATION

1. Upon receipt of a claim, the Claims Administrator shall first assign the claim a unique Claim Identification Number and then determine whether the Claimant's submission satisfies the Claim Deadline and whether the submission is a Complete Claim Package. The Claims Administrator shall make every reasonable effort to complete this determination within ten (10) days of receipt of the claim.
2. For each Claimant who has submitted an incomplete Claim Package or for each Claim Package that the Claims Administrator is unable to determine whether it is complete or timely, the Claims Administrator shall send to the Claimant and his or her Counsel a completed Your Claim Package is Not Complete Form (Ex. F). A Claimant shall have thirty (30) calendar days from the date of postmark of such a Form to submit, either by first-class mail, postage prepaid, or electronically, a Complete Claim Package. There shall be no exceptions to or extensions of the time frames set forth in this paragraph, and the failure of a Claimant to provide any requested materials within the specified time frames will result in that Claimant obtaining a final and unreviewable adverse determination.
3. For each Claimant whose claim is untimely submitted, the Claims Administrator shall return the Claim Package to the Claimant and his or her Counsel with a completed You Have Not Submitted Your Claim On Time Form (Ex. G). This determination is final and not reviewable by the Claims Administrator, the Track A Neutral, the Track B Neutral, the Court, or any other party or body, judicial or otherwise.
4. For each Claimant determined by the Claims Administrator to have submitted a timely and Complete Claim Package, the Claims

Administrator shall determine whether the Claimant is a Class Member. To make this determination, the Claims Administrator shall determine whether the Class Member has established, by a preponderance of the evidence, that:

- a. The Claimant submitted a Late-Filing Request under Section 5(g) of the *Pigford* Consent Decree on or after October 13, 1999, and on or before June 18, 2008. For purposes of this determination, the Claims Administrator shall review the *Pigford* Timely 5(g) List. If a Claimant appears on the *Pigford* Timely 5(g) List, the Claimant will be deemed to have submitted a Late-Filing Request. If the Claimant is not on the *Pigford* Timely 5(g) List, the Claimant must establish with independent documentary evidence that he or she submitted a Late-Filing Request. A tracking number given to a Claimant in *Pigford* or a list maintained by the *Pigford* Facilitator other than the Timely 5(g) List are insufficient, on their own, to constitute independent documentary evidence for this purpose. The Claims Administrator shall make this determination by examining the documents, if any, provided by Class Counsel and the documents submitted by the Claimant as part of his or her claim; and
 - b. The Claimant has not obtained a determination on the merits of his or her discrimination complaint, as defined by Section 1(h) of the *Pigford* Consent Decree. For purposes of this determination, the Claims Administrator shall review the *Pigford* Participants List and the *Pigford* Opt-Out List. If a Claimant (a) appears on either of these Lists, or (b) has obtained a judgment from a judicial or administrative forum on the basis of the race discrimination claim that provides the basis of the Claimant's discrimination complaint, that Claimant will be deemed to have obtained a determination on the merits of his or her discrimination claim. If the Claims Administrator determines, at any time prior to paying a Claimant under this Agreement, that the Claimant already has obtained a determination on the merits of his or her discrimination complaint, the Claims Administrator shall not make any payments to the Claimant.
5. For each Claimant who the Claims Administrator determines is not a Class Member, the Claims Administrator shall complete a You Are Not a Class Member Form (Ex. H) and send the Form to the Claimant and his or her counsel. This determination is final and not reviewable by the Claims

Administrator, the Track A Neutral, the Track B Neutral, the Court, or any other party or body, judicial or otherwise.

6. For each Claimant who the Claims Administrator determines to be a Class Member and who elects Track A, the Claims Administrator shall complete Parts I and VI of a Track A Claim Determination Form (Ex. A) and send the Form and the Class Member's claim electronically to the Track A Neutral. If the Class Member seeks a Track A Loan Award and has submitted an Authorization to Disclose Debt Information Form (Ex. D), the Claims Administrator shall request that FSA confirm whether the Class Member has an outstanding Farm Loan Program loan(s) and provide the applicable loan(s) balance(s) and loan payoff amount(s). In order to make this request, the Claims Administrator must complete the Authorization to Disclose Debt Information Form received from the Class Member and send it, along with the Class Member's completed Claim Form, to FSA. Within sixty (60) calendar days of receipt of the request or as soon thereafter as is practicable, FSA will return the Authorization to Disclose Debt Information Form to the Claims Administrator with the requested information. The payoff amount will be as of a date certain with a daily interest accrual note. Interest will continue to accrue until the account is paid in full. The Claims Administrator shall submit the completed Authorization to Disclose Debt Information Form to the Track A Neutral reviewing the Class Member's Claim, the Class Member, and the Class Member's Counsel.
7. Within ten (10) days after the Claim Deadline, for each Claimant who the Claims Administrator determines to be a Class Member and who elects Track B, the Claims Administrator shall send the Class Member a notice in writing informing the Class Member of the total number of Class Members who submitted Complete Claims Packages under Track B by the Claim Deadline. Such notification shall also remind each Class Member of: (a) the definition of Track B Awards; (b) the Track B Cap; and (c) the possibility that a Class Member's Track B Award will be reduced if the total of all Track B Awards exceeds the Track B Cap. Such notification shall inform the Class Member that the Class Member may change his or her election to Track A by so notifying the Claims Administrator in writing within thirty (30) days of the postmark of the notification. If a Track B Class Member does not so notify the Claims Administrator, his or her claim shall be treated as a Track B claim.
8. For each Claimant who the Claims Administrator determines to be a Class Member and who elects Track B under Section V.B.7, the Claims Administrator shall complete Parts I and VI of a Track B Claim

Determination Form (Ex. B) and send the Form and the Class Member's claim electronically to the Track B Neutral.

9. For each Claimant who the Claims Administrator determines to be a Class Member and who elects Track A under Section V.B.7, the Claims Administrator shall follow the procedure in Section V.B.6.
10. The Claims Administrator shall make every reasonable effort to complete the Class Membership Determination and complete his or her other duties under this Section within sixty (60) days of receipt of a Complete Claim Package.

C. TRACK A

1. For each Class Member asserting a claim under Track A, the Track A Neutral shall determine whether the Class Member has established, by substantial evidence, each of the following elements:
 - a. The Class Member is an African-American who farmed, or attempted to farm, between January 1, 1981, and December 31, 1996;
 - b. The Class Member owned or leased, or attempted to own or lease, farm land;
 - c. The Class Member applied, or constructively applied, for a specific farm credit transaction(s) or non-credit benefit(s) at a USDA office between January 1, 1981, and December 31, 1996;
 - d. For claimants who applied -- *i.e.*, not constructively applied -- for a specific farm credit transaction(s) or non-credit benefit(s), the farm loan(s) or non-credit benefit(s) for which the Class Member applied was denied, provided late, approved for a lesser amount than requested, encumbered by a restrictive condition(s), or USDA failed to provide an appropriate loan service(s);
 - e. USDA's treatment of the loan or non-credit benefit application(s) or constructive application(s) led to economic damage to the Class Member; and

- f. The Class Member complained of discrimination to an official of the United States Government on or before July 1, 1997, regarding USDA's treatment of him or her in response to the application(s).

"Substantial evidence" is such evidence that a reasonable person might accept as adequate to support a conclusion after taking into account other evidence in the record that fairly detracts from that conclusion.

Substantial evidence is a lower standard of proof than a preponderance of the evidence.

- 2. For each Class Member who asserts that he or she "constructively applied" for a loan or non-credit benefit in order to satisfy Section V.C.1.c, the Track A Neutral must make an additional determination that the Class Member has established, by substantial evidence, that:

- a. The Class Member made a *bona fide* effort to apply for a loan or non-credit benefit. Such *bona fide* effort may be established by evidence of:

- (1) the year in which the Class Member attempted to apply and the general time period within that year (*e.g.*, late fall, early spring, sometime in January, February, or March);
- (2) the type and amount of loan or non-credit benefit for which the Class Member attempted to apply;
- (3) how the Class Member planned to use the funds (*i.e.*, identification of crops, equipment, acreage, etc.); and
- (4) how the Class Member's plans for a farm operation were consistent with farming operations in that county/area in that year; and

- b. USDA actively discouraged the application. Active discouragement may be established by evidence of:

- (1) statements by a USDA official that, at the time the Class Member wanted to apply, there were no funds available and therefore no application would be provided;

- (2) statements by a USDA official that, at the time the Class Member wanted to apply, there were no application forms available; or
 - (3) statements by a USDA official that, at the time the Class Member wanted to apply, USDA was not accepting or processing applications.
3. The Track A Neutral's determination shall be based solely on the materials submitted by the Class Member and, if applicable, the information provided by FSA in response to a completed Authorization to Disclose Debt Information Form.
4. If, in the Track A Neutral's judgment, additional documentation and evidence would be necessary or helpful in deciding the merits of a particular claim, or if the adjudicator suspects fraud regarding a particular claim, the Track A Neutral may require that the Class Member provide additional documentation and evidence. A Class Member's inability to provide the requested additional documentation or evidence shall not require a rejection of that Class Member's claim.
5. If the Track A Neutral determines that the Class Member has satisfied the elements listed above in Sections V.C.1 and V.C.2 for a credit or non-credit claim, the Neutral shall complete Part V on the Class Member's Track A Claim Determination Form (Ex. A). If the Track A Neutral determines that the Class Member has not satisfied the elements listed above, the Neutral shall complete Part IV of the Track A Claim Determination Form. The Neutral shall make every reasonable effort to complete this determination and send the Track A Claim Determination Form electronically to the Claims Administrator within thirty (30) calendar days of receipt of the claim or within ten (10) calendar days of receipt of the Authorization to Disclose Debt Information Form, whichever is later.

D. TRACK B

1. For each Class Member asserting a credit claim under Track B, the Track B Neutral shall determine whether the Class Member has established, by a preponderance of the evidence and through independent documentary evidence admissible under the Federal Rules of Evidence, each of the following elements:

- a. The Class Member is an African-American who farmed, or attempted to farm, between January 1, 1981, and December 31, 1996;
- b. The Class Member owned or leased, or attempted to own or lease, farm land;
- c. The Class Member applied for a specific farm credit transaction(s) at a USDA office between January 1, 1981, and December 31, 1996. Constructive application is insufficient;
- d. The farm loan(s) for which the Class Member applied was denied, provided late, approved for a lesser amount than requested, encumbered by a restrictive condition(s), or USDA failed to provide an appropriate loan service(s);
- e. The treatment of the Class Member's loan application(s) by USDA was less favorable than that accorded a specifically identified, similarly situated white farmer(s);
- f. USDA's treatment of the loan application(s) led to economic damage to the Class Member; and
- g. The Class Member complained of discrimination to an official of the United States Government on or before July 1, 1997, regarding USDA's treatment of him or her in response to the application(s).

A "preponderance of the evidence" is such relevant evidence as is necessary to prove something is more likely true than not true.

- 2. Notwithstanding the requirement that each element in Track B be established by a preponderance of the evidence and with independent documentary evidence admissible under the Federal Rules of Evidence,
 - a. Sections V.D.1.e and V.D.1.g may be established by a preponderance of the evidence and with a sworn statement based on personal knowledge by an individual who is not a member of the Class Member's family;
 - b. The Class Member's loan application and supporting documents forming the basis of the Class Member's claim are deemed admissible under the Federal Rules of Evidence upon a sworn

statement by the Class Member that the loan application and supporting documents were submitted to FSA contemporaneously to the date of the complete application. FSA documents that were provided to the Class Member in response to the Class Member's loan application are also deemed admissible under the Federal Rules of Evidence upon a sworn statement by the Class Member that the Class Member received the FSA documents in response to the Class Member's loan application contemporaneously to the date of the response; and

- c. Nothing in this Section precludes a Class Member from submitting expert testimony to explain the independent documentary evidence submitted by the Class Member with respect to Section V.D.1.f.
3. Once the Class Member has submitted independent documentary evidence admissible under the Federal Rules of Evidence or evidence as provided for above in Section V.D.2 on each element, the Track B Neutral may consider the materials submitted by the Class Member and any other information or material deemed appropriate for consideration by the Track B Neutral.
4. If, in the Track B Neutral's judgment, additional documentation and evidence would be necessary or helpful in deciding the merits of a particular claim, or if the adjudicator suspects fraud regarding a particular claim, the Track B Neutral may require that the Class Member provide additional documentation and evidence. A Class Member's inability to provide the requested additional documentation or evidence shall not require a rejection of that Class Member's claim.
5. If the Track B Neutral determines that the Class Member has satisfied the elements listed in Section V.D.1 above, the Neutral shall complete Part V on the Class Member's Track B Claim Determination Form (Ex. B). If the Track B Neutral determines that the Class Member has not satisfied the elements listed above, the Neutral shall complete Part IV of the Track B Claim Determination Form. The Neutral shall make every reasonable effort to complete this determination and send the Track B Claim Determination Form electronically to the Claims Administrator within sixty (60) calendar days of receipt of the claim.

E. DISTRIBUTION OF CLAIM DETERMINATIONS AND SETTLEMENT FUNDS

1. Within thirty (30) days of the Claims Administrator's receipt of a Track A or Track B Claim Determination Form (Exs. A or B) for a denied claim, the Claims Administrator shall complete Parts I, II, and IV of the applicable Claim Determination Form and send the completed Claim Determination Form to the non-prevailing Class Member and his or her counsel, and to Lead Class Counsel.
2. Within thirty (30) days of the Claims Administrator's receipt of a Track A or Track B Claim Determination Form (Exs. A or B) for a prevailing claim, the Claims Administrator shall send a letter in the form of Exhibit J to the prevailing Class Member and his or her counsel, and to the Lead Class Counsel.
3. On a quarterly basis, the Claims Administrator shall provide to the Secretary and Lead Class Counsel a written report, which may be provided on the USDA Quarterly Payment Reporting Form (Ex. I), that includes:
(a) the name, address, and Social Security or Taxpayer Identification Number of each Class Member who has completed the claims process;
(b) the Class Member's FSA Account Number, if applicable, and (c) the status of the Class Member's claim.
4. Within thirty (30) calendar days of receipt of all Track A and Track B Claim Determination Forms (Exs. A and B), the Claims Administrator shall calculate: (a) the sum of all Provisional Track A Liquidated Awards, Provisional Track A Loan Awards, and Provisional Track A Tax Awards, as shown on Part V of the Track A Claim Determination Forms (Ex. A); (b) the sum of all Provisional Track B Awards, as shown on Part V of the Track B Claim Determination Forms (Ex. B); (c) the sum of all Final Track A Liquidated Awards, Final Track A Loan Awards, Final Track A Tax Awards, and Final Track B Awards, as calculated in Appendix 1; (d) the Implementation Costs incurred to date; (e) a good faith estimate of Implementation Costs necessary for the Claims Administrator to perform its final duties under this Agreement; (f) the Ombudsman Costs incurred to date; (g) a good faith estimate of the Ombudsman Costs necessary for the Ombudsman to perform his or her final duties under this Agreement; (h) the amount of the Fee Award; (i) the sum of Track B Fees incurred by Track B Class Members, as calculated in Appendix 1.
5. CALCULATION OF AWARDS – Final Awards for each Claimant shall be calculated in accordance with the procedure delineated in Appendix 1.

The following is a summary of Appendix 1: To calculate a Claimant's Final Award, each Claimant's Provisional Award may be subject to the following reductions:

- a. The first reduction involves Track B Awards. If the total amount of Track B Awards exceeds the Track B Cap, all Track B Awards are reduced proportionately until their sum equals the Track B Cap. If the sum of all Track B Awards is under the Track B Cap, no reduction is applied.
 - b. The next reduction involves Class Members who submitted Late-Filing Requests in *Pigford* after September 15, 2000. If, after making the reduction in subsection (a), the amount of the funds available to pay the prevailing Class Members is *insufficient* to fully pay Track A Awards and Track B Awards, the awards for those claimants who submitted Late-Filing Requests in *Pigford* after September 15, 2000 will be reduced by up to 30%. If, after making the reduction in subsection (a), the amount of the funds available to pay the prevailing Class members is *sufficient* to fully pay Track A Awards and Track B Awards, no reduction is applied.
 - c. The final reduction involves all Class Members. If, after making the reductions in subsections (a) and (b), the amount of the funds available to pay the prevailing Class Members is still insufficient to fully pay Track A Awards and Track B Awards, all Class Members will have their awards proportionally reduced until the total of all awards equals the amount of funds available.
6. The Claims Administrator shall record the Final Awards and the Final Track B Fees in Parts II and III of the prevailing Class Members' Track A and Track B Claim Determination Forms (Exs. A and B). The Claims Administrator shall then remove Parts V and VI from the Determination Forms.
 7. Within thirty (30) calendar days of receipt of all Track A and Track B Claim Determination Forms (Exs. A and B), the Claims Administrator shall prepare the Preliminary Final Accounting and submit it to Lead Class Counsel, the Secretary and the Court. The Preliminary Final Accounting shall identify: (1) the number and amount of all Final Track A Liquidated Awards, Final Track A Loan Awards, Final Track A Tax Awards, and Final Track B Awards (shown in Part III of the completed Track A and Track B Determination Forms); (2) the Implementation Costs incurred to date; (3) a good faith estimate of Implementation Costs necessary for the

Claims Administrator to perform its final duties under this Agreement; (4) the Ombudsman Costs incurred to date; (5) a good faith estimate of Ombudsman Costs necessary for the Ombudsman to perform its final duties under this Agreement; (6) the amount of the Fee Award; (7) the sum of Track B Fees incurred by Track B Class Members, and (8) the amounts that the Secretary already has paid for interim Implementation Costs, interim Common Benefit Fees, and Ombudsman Costs, and the status of these funds.

8. Within thirty (30) calendar days of the date that the Secretary makes the payment specified in Section IV.H, the Claims Administrator shall:
 - a. Send to each prevailing Track A Class Member who retained Class Counsel or proceeded without counsel the Class Member's Track A Claim Determination Form (Ex. A) (without Parts V and VI) and a check payable to the Class Member in the amount of the Class Member's Final Track A Liquidated Award. The Claims Administrator shall also send to the Individual Counsel for each Track A Class Member who retained Individual Counsel the Class Member's Track A Claim Determination Form (Ex. A) (without Parts V and VI) and a check jointly payable to the Class Member and his or her Individual Counsel in the amount of the Final Track A Liquidated Award. The Claims Administrator shall also send to each prevailing Track B Class Member the Class Member's Track B Claim Determination Form (Ex. B) (without Parts V and VI) and a check payable to the Class Member in the amount of the Final Track B Award, minus the Class Member's Final Track B Fee.
 - b. Send, on behalf of each prevailing Track A Class Member: (a) to the Internal Revenue Service (IRS), the amount of the Class Member's Final Track A Tax Award; and (b) to FSA, the amount of the Class Member's Final Track A Loan Award. The Claims Administrator shall provide the Class Member's counsel, or the Class Member directly if the Class Member has no counsel, notice that such payment(s) has been made. When transmitting payments for Track A Loan Awards to FSA, the Claims Administrator shall provide FSA with the name, address, and Social Security or Taxpayer Identification Number of the Class Member on whose behalf the payment is being made as well as the FSA Account Number of the loan to which the credit should be made.
 - c. Send a check to the counsel for each prevailing Track B Class Member in the amount of that Class Member's Final Track B Fee.

9. Within thirty (30) calendar days of the date that the Secretary makes the payment specified in Section IV.H, the Claims Administrator shall cause to be paid from the Designated Account any outstanding Implementation Costs and Ombudsman Costs approved by the Court.
10. Within thirty (30) calendar days of the date that the Secretary makes the payment specified in Section IV.H and upon approval by the Court, the Claims Administrator shall pay Common Benefit Fees to Class Counsel equal to the Fee Award minus the sum of Track B Fees the Claims Administrator caused to be paid and minus any interim Common Benefit Fees already paid.
11. All checks distributed under this Section will be valid for 180 calendar days from the date of issue. The funds corresponding to any check that remains uncashed 181 calendar days from its date of issue shall remain in the Designated Account if Appendix 1 Section I.A.3 applies, shall be distributed *pro rata* to all prevailing Class Members if Appendix 1 Section I.A.4.a.(1) applies, or shall be distributed *pro rata* to the prevailing Class Members subject to the 30% reduction if Appendix 1 Section I.A.4.a.(2) applies. The Claims Administrator shall send a check made payable to the Class Member in the amount of the *pro rata* distribution, if applicable. These checks will be valid for 180 calendar days from the date of issue. Notwithstanding any other provision, no Class Member shall receive a total of more than his or her Provisional Track A Award or Track B Award.
12. If a Class Member who is deceased or was unable to submit a claim on his or her own behalf due to a physical or mental limitation prevails, and a legal representative has not yet been appointed for the Class Member, the funds payable to the Class Member shall be held for up to one year in a separate account established by Class Counsel for the benefit of the Class Member until a legal representative for the Class Member to whom the funds may be disbursed is appointed. The Claims Administrator may extend this period upon receipt of proof that a petition for appointment of a legal representative for the Class Member is pending in the appropriate court.
13. In the event there is a balance remaining in the Designated Account after the last check has been cashed, the last check has been invalidated due to passage of time, and after the passage of time set forth in Section V.E.12, Class Counsel may then move the Court to designate "Cy Pres Beneficiaries." A "Cy Pres Beneficiary" must be a non-profit organization, other than a law firm, legal services entity, or educational

institution that has provided agricultural, business assistance, or advocacy services, including assistance under *Pigford* and the Consolidated Case, to African American farmers between 1981 and the Execution Date. Each Cy Pres Beneficiary designated by the Court shall receive equal shares of the balance remaining in the Designated Account. The Claims Administrator shall send to each Cy Pres Beneficiary, via first class mail, postage prepaid, a check in the amount of the Beneficiary's share.

- F. Within 200 calendar days of making all payments set forth in this Section, the Claims Administrator shall prepare the "Final Accounting" and submit it to Lead Class Counsel, the Secretary, the Attorney General, and the Inspector General of the Department of Agriculture. The "Final Accounting" is an accounting prepared and signed by the Claims Administrator after all funds in the Designated Account have been disbursed. The Final Accounting shall identify: (1) the number and amount of all awards the Claims Administrator has caused to be paid to Class Members, to FSA, and to the Internal Revenue Service; (2) the Implementation Costs incurred under the Agreement; (3) the Ombudsman Costs incurred under the Agreement; (4) the amount the Claims Administrator caused to be paid in Common Benefit Fees; (5) the sum of Track B Fees the Claims Administrator caused to be paid; and (6) the amount of any leftover funds paid to Cy Pres Beneficiaries. The Final Accounting shall also identify the total amount of funds the Secretary has provided under this Agreement and the status of these funds.
- G. For purposes of conducting the performance audit prescribed in Section 201(h)(2) of Pub. L. 111-291 based on a statistical sampling of adjudicated claims relating to this Agreement, the Inspector General of the Department of Agriculture shall have access, upon request, to the Claims Administrator, the Track A Neutral, and the Track B Neutral, and to any information and records generated, used, or received by them, including but not limited to names and addresses.

VI. OMBUDSMAN

- A. The Court may appoint an independent Ombudsman, who shall report directly to the Court. The Ombudsman shall not be removed except for good cause and shall serve for as long as the Court has continuing jurisdiction to enforce the Settlement Agreement. The Ombudsman's fees, costs, and expenses ("Ombudsman Costs") shall be paid separately from Implementation Costs, from the Designated Account, upon Court approval.
- B. The Ombudsman shall:
 - 1. Be available to Class Members and the public through a toll-free

telephone number in order to address concerns about implementation of this Settlement Agreement;

2. Attempt to address any concerns or questions that any Class Member may have with respect to the implementation of this Settlement Agreement;
 3. Make periodic written reports (not less than every six months) to the Court, the Secretary, and Class Counsel on the good faith implementation of this Settlement Agreement;
 4. Have access to the records maintained by the Claims Administrator and the Neutrals involved in the claims process; and
 5. Make recommendations to the Court relating to the implementation of this Settlement Agreement.
- C. The Ombudsman shall not have the power to alter in any way substantive claims decisions made by the Neutrals or the Claims Administrator, nor shall the Ombudsman have the power to direct the Secretary and/or the United States to take any actions pursuant to this Settlement Agreement.

VII. ACCELERATIONS AND FORECLOSURES

- A. The Secretary agrees to refrain from accelerating or foreclosing any FSA Farm Loan Program loan held by a Class Member that originated between January 1, 1981, and December 31, 1996, until the quarterly report provided in Section V.E.3 reports that the Class Member is not eligible for a Track A Award or a Track B Award under Section V.C.5 or V.D.5.
- B. This Section does not:
1. Prohibit the Secretary from taking any action up to, but not including, acceleration or foreclosure that is necessary to protect his interests or service a loan under applicable law; or
 2. Apply to a loan that is the subject of:
 - a. a judicial proceeding in which the United States is a party pending as of the Execution Date, or
 - b. a non-judicial foreclosure proceeding initiated under state law by or on behalf of the United States pending as of the Execution Date.

VIII. THE DUTIES OF CLASS COUNSEL

- A. Class Counsel, under the direction of Lead Class Counsel, shall:
1. Perform all duties set forth in Federal Rule of Civil Procedure 23, those ordered by the Court, and those provided for in this Agreement;
 2. Provide representation without additional charge to Claimants who elect to submit claims under Track A;
 3. Obtain from the *Pigford* Facilitator (a) a current version of the *Pigford* Timely 5(g) List, (b) copies of all late-filing requests, (c) all other available information and correspondence regarding the late-filing status of Class Members, including any lists prepared by the *Pigford* Facilitator reflecting such status, (d) the *Pigford* Participants List, and (e) the *Pigford* Opt-Out List. Lead Class Counsel shall make these materials available to the Claims Administrator and the Track A and B Neutrals. This information shall be subject to any existing or future protective orders of the Court;
 4. Upon request by a Claimant or Individual Counsel representing a Claimant and after proof of compliance with any existing or future protective orders of the Court, provide to such Individual Counsel or Claimant verification of the Claimant's presence on the most recent *Pigford* Timely 5(g) List, *Pigford* Participants List, and *Pigford* Opt-Out List in Class Counsel's possession as well as copies of any of the communications or information in Class Counsel's possession that refer or relate to the Claimant on whose behalf the request is made;
 5. Provide the Court-approved Notice of this Agreement to Class Members;
 6. Answer Class Member questions and respond to issues raised by the Ombudsman;
 7. Provide information to Class Members regarding the status of claims processing or the distribution of the funds provided under this Agreement; and
 8. Perform other such duties as may be incidental to proper coordination of this Agreement. Class Counsel shall have no obligation to perform any legal work for any Class Member related to the probate of a Class

Member's estate, including the appointment of executors or legal representatives.

- B. Lead Class Counsel shall be responsible for general coordination and direction of the activities of all other Class Counsel. In performing this responsibility, Lead Class Counsel shall:
1. Determine and present the position of the Class on any matters arising during Court proceedings, including any proceedings relating to class certification and the approval and implementation of this Agreement;
 2. Coordinate and direct the efforts of all counsel acting on behalf of Class Members so as to assist Class Members with completing claims, provide accurate and timely information to Class Members, allocate work load to Class Counsel, and ensure that all Class Counsel assigned to represent Class Members are performing the work allocated to them. (In this regard, certain counsel who are signatories to this Settlement Agreement have agreed to share responsibility for work performed on behalf of Class Members in the percentages set forth in a Counsel Participation Agreement that will be provided to the Court with Class Counsel's fee petition.);
 3. Develop and enforce time reporting requirements for all other counsel acting on behalf of the Class and maintain a database of all reported time and expenses by counsel acting on behalf of the Class;
 4. Prepare and file a fee petition with the Court;
 5. Subject to approval by the Court, retain and dismiss the Claims Administrator and the Track A and B Neutrals, and ensure that these administrators do not incur costs that would cause the Implementation Costs to exceed the Cost Cap;
 6. Retain and dismiss other vendors and providers as appropriate to assist in the implementation of the Agreement;
 7. Direct and oversee the implementation and dissemination of notice of this Agreement to Class Members, and control or direct all communications with Class Members subject to approval and oversight by the Court if required by Federal Rule of Civil Procedure 23;

8. Develop the content of a Settlement Website (to be approved by the Court) and ensure its proper use and administration;
9. Plan, develop and conduct meetings or seminars designed to provide notice or assistance to Class Members regarding this Agreement;
10. Conduct additional or supplemental negotiations on behalf of the Class (in consultation with the Plaintiffs' Steering Committee), if necessary;
11. Delegate specific tasks to other counsel or committees of counsel in a manner to ensure the Agreement is effectuated and adequate notice and assistance with the submission of claims is provided to Class Members;
12. Work with the Secretary's Counsel as necessary for the conduct of this Agreement and its approval and implementation under Federal Rule of Civil Procedure 23;
13. Prepare and distribute periodic status reports and any accountings required by this Agreement to Class Members, the Court, or the Secretary as appropriate;
14. Maintain adequate time and disbursement records covering services as Lead Class Counsel and develop and enforce time reporting requirements for all other counsel acting on behalf of the Class;
15. Monitor and redirect the activities of Class Counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided;
16. Develop procedures and methods to provide Class Members with answers to frequently asked questions, to respond to issues raised by the Ombudsman, to assist with the claims process and the distribution of funds provided under this Agreement, and to wind up the administration of this Agreement when appropriate; and
17. Coordinate all communications among counsel working on behalf of individual Class Members (both Class Counsel and Individual Counsel), and all communications among Class Counsel acting on behalf of the Class
18. Perform other such duties as may be incidental to proper coordination of this Agreement.

- C. Under the direction of Lead Class Counsel, the Plaintiffs' Steering Committee shall assist Lead Class Counsel in the performance of their duties, including:
 - 1. Overseeing the quality and allocation of work among Class Counsel; and
 - 2. Performing other such duties as may be incidental to proper coordination of this Agreement.

IX. PROCEDURES GOVERNING APPROVAL OF THIS AGREEMENT

- A. Within twenty (20) business days of the Execution Date, the Signatory Plaintiffs shall submit this Agreement and its Exhibits and a Motion for Preliminary Approval to the Court. The Motion shall specifically request that the Court set a hearing on the Motion and be accompanied by a proposed Preliminary Approval Order, a proposed Settlement Notice, and a proposed Settlement Notice Plan. The Motion shall specifically request that the Court:
 - 1. Certify, for settlement purposes only, a Federal Rule of Civil Procedure 23(b)(1) limited fund, non-opt-out class as defined by this Agreement;
 - 2. Appoint some of the Signatory Plaintiffs as Representatives for the Class pursuant to Federal Rule of Civil Procedure 23(a)(4);
 - 3. Appoint Class Counsel pursuant to Federal Rule of Civil Procedure 23(g) and order that Class Counsel perform the duties set forth in this Agreement. Signatory Plaintiffs, in their Motion, will propose specific individuals as Class Counsel;
 - 4. Designate Lead Class Counsel and the Plaintiffs' Steering Committee. Signatory Plaintiffs, in their Motion, will propose specific individuals for these designations;
 - 5. Preliminarily approve this Agreement;
 - 6. Approve the Signatory Plaintiffs' selection of a Claims Administrator and Neutrals to perform the duties set forth in this Agreement within the cost controls set out in this Agreement. The Claims Administrator and the Neutrals will be designated by Signatory Plaintiffs' Counsel prior to the date of the requested hearing on the Preliminary Approval Motion;
 - 7. Approve the Signatory Plaintiffs' plan for dissemination of notice of this Agreement pursuant to Federal Rule of Civil Procedure 23(e)(1);

8. For purposes of the notice to be provided to members of the Class, preliminarily determine the cap on Track A Individual Counsel Fees and the Track B Fees;
 9. For purposes of the notice to be provided to members of the Class, preliminarily approve a range of Common Benefit Fees between 4.1% and 7.4% of the Fee Base;
 10. Set a date and procedure by which objections from Class Members must be filed;
 11. Set a date for a hearing (the “Fairness Hearing”) to consider whether the Agreement should be approved under Federal Rule of Civil Procedure 23(e);
 12. Enter a Federal Rule of Civil Procedure 26(c) protective order regarding the dissemination of the personal information contained in the *Pigford* Participants List, the *Pigford* Opt-Out List, the *Pigford* Timely 5(g) List, and the information and correspondence maintained by the *Pigford* Facilitator regarding the late-filing status of Claimants; and
 13. Authorize the Secretary to pay into the Designated Account the funds specified in Sections IV.C, IV.D, IV.F, and IV.G and order that the expenditure of such funds for purposes of this Agreement are a proper and consistent use of the funds, and that the Secretary shall not be liable in any other context or proceeding for these funds in the event that the Agreement becomes void or is voided.
- B. The Signatory Plaintiffs shall provide the Secretary with a draft of the Motion for Preliminary Approval and accompanying exhibits ten (10) business days prior to filing such papers. .
- C. No later than three (3) business days before the Fairness Hearing, Lead Class Counsel shall file with the Court a declaration confirming compliance with the Notice procedures approved by the Court.
- D. At the Fairness Hearing, the Parties will each request that the Court finally approve this Agreement pursuant to Federal Rule of Civil Procedure 23(e), order all existing retainer agreements for Section 14012 claims between prospective Class Members and their attorneys be modified to conform to the fee provisions of this Agreement; finally approve the Track A Fee Cap and Track B Fee Cap; and finally approve the distribution of any remaining funds pursuant to Section IV

of this Agreement. The Parties agree to take all actions necessary to obtain approval of this Agreement.

X. ATTORNEYS' FEES, EXPENSES, AND COSTS

- A. As part of the Motion for Preliminary Approval of this Agreement, Signatory Plaintiffs will move the Court to preliminarily approve a cap on Track B Fees of 8% of a Track B Claimant's Final Award and a cap on Track A Individual Counsel Fees of 2% of a Track A Claimant's Final Award. As part of the Motion for Final Approval of this Agreement, Signatory Plaintiffs will move the Court to finally approve a cap on Track B Fees of 8% of a Track B Claimant's Final Award and a cap on Track A Individual Counsel Fees of 2% of a Track A Claimant's Final Award.
- B. As part of the Motion for Preliminary Approval, Signatory Plaintiffs will move the court to preliminarily approve the range of the Fee Award, for purposes of notice to the Class, between 4.1% and 7.4% of the Fee Base. No later than sixty (60) days after the Claim Deadline, Class Counsel will move the Court to set the amount of the Fee Award, except that the amount of the Fee Award shall be at least 4.1% and not more than 7.4% of the Fee Base. Lead Class Counsel shall have sole responsibility to prepare and file a petition with the Court seeking approval of, and setting the amount for, the Fee Award prior to receiving any fees under this Agreement.
- C. The Secretary reserves the right to respond to the fee petition in full and reserves the right to argue that the Fee Award should be limited to 4.1% of the Fee Base.
- D. The Court's determination of the Fee Award, the cap on Track A Individual Counsel Fees, and the cap on Track B Fees shall be conclusive, and neither the Class, nor Class Counsel, nor the Secretary shall appeal the decision.
- E. Class Counsel shall be paid Common Benefit Fees for their reasonable and compensable work on behalf of the Class. The total amount of Common Benefit Fees shall equal the Fee Award minus the sum of Track B Fees the Claims Administrator caused to be paid. Class Counsel may accept interim payments of Common Benefit Fees, costs, and expenses from funds designated in Section IV.F. Certain Signatory Plaintiffs' Counsel have entered into a Counsel Participation Agreement which reflects their agreement regarding allocation of work and distribution of fees. This Counsel Participation Agreement will be submitted to the Court with Class Counsel's fee petition.

- F. Except for the payments to the Designated Account required under Section IV, the Secretary shall not be liable to pay Class Counsel, Signatory Plaintiffs' Counsel, or Individual Counsel any attorneys' fees, expenses, or costs.
- G. The Class Representatives, the Class, and/or Class Counsel may not terminate this Agreement because the Class Representatives, the Class, and/or Class Counsel assert that the amount of the Fee Award, the cap on Track A Individual Counsel Fees, or the cap on Track B Fees is inadequate.
- H. The Class Representatives, the Class, Class Counsel, and Individual Counsel release, acquit, and forever discharge any claim that they may have against the Secretary for attorneys' fees, expenses, or costs associated with their representation of the Signatory Plaintiffs, the Class, or any Member of the Class in the Consolidated Case or under this Agreement.
- I. If a person preparing a claim on a Claimant's behalf seeks the Claimant's award as a representative of the Claimant's estate, Class Counsel and Individual Counsel may, but are not required to, represent that Claimant in any probate proceedings. The fee for such probate work is outside the scope of this Agreement and is not subject to any limitation on attorneys' fees, expenses, or costs contained within this Agreement.

XI. CONDITIONS THAT RENDER AGREEMENT VOID OR VOIDABLE

- A. With the exception of Section XII,
 - 1. This Agreement shall be voidable by the Secretary if, at any time prior to the Effective Date or the Preliminary Final Accounting Date, whichever is later, Congress appropriates additional funds such that the total of all funds appropriated for Section 14012 claims exceeds \$1,250,000,000. The Secretary shall have sixty (60) calendar days from the date that this Agreement becomes voidable to notify Class Counsel that he is exercising the option to void this Agreement.
 - 2. This Agreement shall be void if, at any time prior to the Effective Date or Preliminary Final Accounting Date, whichever is later, Congress appropriates additional funds, from the Judgment Fund, 31 U.S.C. § 1304, or any other source, or otherwise legislates to cause the 2010 Funds to be unlimited or without a maximum cap.
 - 3. This Agreement shall be voidable by the Secretary if, prior to the Effective Date, Congress alters or amends Section 14012 to (a) expand or contract

the cause of action set forth in Section 14012(b); (b) expand or contract the group of individuals eligible to file claims under Section 14012; and/or (c) impose new burdens or obligations under Section 14012 on the Secretary and/or the United States beyond those set forth in Section 14012 as of June 18, 2008. The Secretary shall have sixty (60) calendar days from the date that this Agreement becomes voidable to notify Class Counsel that it is exercising the option to void this Agreement.

4. This Agreement shall be voidable by the Secretary or the Class if the Court does not approve this Agreement in full, including the amount of the Fee Award, or if the Court's order granting final approval of this Agreement is reversed on appeal. The Secretary and/or the Class shall have sixty (60) calendar days from the date of such decision to notify the other party that it is exercising its option to void this Agreement.

XII. EFFECT OF AGREEMENT IF VOIDED

A. Should this Agreement become void or be voided as set forth in Section XI,

1. The Secretary will not object to reinstatement of the individual complaints dismissed under this Agreement.
2. All negotiations in connection herewith, and all statements made by the Parties at or submitted to the Court during the Fairness Hearing shall be without prejudice to the Parties to this Agreement and shall not be deemed or construed to be an admission by a Party of any fact, matter, or proposition.
3. The Secretary retains all defenses, arguments, and motions as to all claims that have been or might later be asserted in the Consolidated Case, and nothing in this Agreement shall be raised or construed by any Signatory Plaintiff, Claimant, Class Representative, Class, or Class Counsel, to defeat or limit any defenses, arguments, or motions asserted by the Secretary. Neither this Agreement, nor the fact of its having been made, nor any exhibit or other document prepared in connection with this Agreement, shall be admissible, entered into evidence, or used in any form or manner in discovery, over the objection of the Secretary in the Consolidated Case or in any other action or proceeding for any purpose whatsoever.
4. With the exception of the Release provided in Section XII.A.5 below, Signatory Plaintiffs, Claimants, and Class Members shall retain all rights, claims, causes of action, arguments, and motions as to all claims that have

been or might later be asserted in the Consolidated Case, and nothing in this Agreement shall be raised by the Secretary or the Secretary's Counsel to defeat or limit any rights, claims, causes of action, arguments, or motions asserted by any Claimants and/or the Class. With the exception of the Release provided in Section XII.A.5 below, neither this Agreement, nor the fact of its having been made, nor any exhibit or other document prepared in connection with this Agreement, shall be admissible, entered into evidence, or used in any form or manner in discovery, over the objection of any Signatory Plaintiffs, Claimants, and/or the Class in the Consolidated Case or in any other action or proceeding for any purpose whatsoever.

5. The Signatory Plaintiffs hereby RELEASE, WAIVE, ACQUIT, and FOREVER DISCHARGE the United States and the Secretary from, and are hereby FOREVER BARRED and PRECLUDED from prosecuting, any and all claims, causes of action, or requests for any monetary relief, including, but not limited to, damages, tax payments, debt relief, costs, attorneys' fees, expenses, and/or interest that, whether presently known or unknown, related to the funds that the Secretary has paid pursuant to Sections IV.C, IV.D, IV.F, and/or IV.G. Neither the Signatory Plaintiffs nor Signatory Plaintiffs' Counsel shall be obligated to repay any interim Implementation Costs, interim Common Benefit Fees, and/or Ombudsman Costs paid by the Secretary under Sections IV.C, IV.D, IV.F, and/or IV.G, but Signatory Plaintiffs' Counsel who have received interim Common Benefit Fees under this Agreement agree not to seek from the United States, the Secretary, or any other source any additional fees for the work compensated by the interim fees.

XIII. RELEASES

- A. The Class Representatives, the Class, and its Members and their heirs, administrators, successors, and assigns (the "Class Releasors") hereby RELEASE, WAIVE, ACQUIT, and FOREVER DISCHARGE the United States and the Secretary (the "Government Releasees") from, and are hereby FOREVER BARRED and PRECLUDED from prosecuting, any and all claims, causes of action, or requests for any monetary relief, including, but not limited to, damages, tax payments, debt relief, costs, attorneys' fees, expenses, and/or interest, whether presently known or unknown, that have been or could have been asserted in the Consolidated Case by reason of, with respect to, in connection with, or which arise out of, any matters alleged in the Consolidated Case that the Class Releasors, or any of them, have against the Government Releasees, or any of them.

- B. The Class Releasors hereby RELEASE, WAIVE, ACQUIT, and FOREVER DISCHARGE any and all rights they have or may have under Public Law No. 110-234 and/or 110-246, § 14012 (2008) and each of its provisions.
- C. The Class Releasors hereby RELEASE, WAIVE, ACQUIT, and FOREVER DISCHARGE any and all rights they have or may have to request or obtain any information, documents, testimony, or discovery in the Consolidated Case or under § 14012 from the Government Releasees.

XIV. NO ADMISSION OF LIABILITY

- A. Neither this Agreement nor any order approving it is or shall be construed as an admission by the Secretary and/or the United States of the truth of any allegation or the validity of any claim asserted in the Consolidated Case, or of the liability of the Secretary and/or the United States, nor as a concession or an admission of any fault or omission of any act or failure to act, or of any statement, written document, or report heretofore issued, filed or made by the Secretary and/or the United States, nor shall this Agreement nor any confidential papers related hereto and created for settlement purposes only, nor any of the terms of either, be offered or received as evidence of discrimination in any civil, criminal, or administrative action or proceeding, nor shall they be the subject of any discovery or construed by anyone for any purpose whatsoever as an admission or presumption of any wrongdoing on the part of the Secretary and/or the United States, nor as an admission by any Party to this Agreement that the consideration to be given hereunder represents the relief which could have been recovered after trial.
- B. The Secretary and the United States deny liability and damages as to each of the claims and requests for damages that were or could have been raised in the Consolidated Case, and this Agreement does not constitute, and may not be construed as, a determination or an admission of a violation of any law, rule, regulation, policy, or contract by the Secretary and/or the United States, the truth of any allegation made in the Consolidated Case, or the validity of any claim asserted in the Consolidated Case. This Agreement does not constitute, and may not be construed as, a determination or an admission that the Secretary and/or the United States is liable in this matter, that the Class or any Member is a prevailing party, that the Class or any Member was substantially justified in any claim or position, or that any claim, defense, or position of the United States was substantially unjustified.
- C. Neither the determination to pay money nor the payment of money under the Non-Judicial Claims Process (Section V) shall be deemed to be a finding of fact, conclusion of law, or an admission of liability or damages by the Secretary and/or the United States, and any such determination to pay money or the payment of

money under the Non-Judicial Claims Process (Section V) shall not be admissible in any civil, criminal, or administrative action or proceeding, nor shall it be construed by anyone for any purpose whatsoever as an admission or presumption of any wrongdoing on the part of the Secretary and/or the United States, nor as an admission by any Party to this Agreement that the consideration to be given hereunder represents the relief which could have been recovered after trial.

- D. Nothing herein shall be construed to preclude the use of this Agreement to enforce the terms thereof.

XV. CONTACT INFORMATION FOR THE SECRETARY AND FSA

- A. The reports, forms, transmissions, accountings, and documentation that must or may be provided to the Secretary under this Agreement shall be sent via electronic transmission or overnight delivery to (1) Counsel of Record for the Secretary in the Consolidated Case, and (2) General Counsel, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250.
- B. The reports, forms, transmissions, accountings, documentation, and checks that must or may be provided to FSA under this Agreement shall be sent via electronic transmission or overnight delivery to Deputy Administrator, Farm Loan Programs U.S. Department of Agriculture, Farm Service Agency, 1400 Independence Avenue SW, Washington, DC 20250, STOP 0520.

XVI. CONTINUING JURISDICTION

Notwithstanding the dismissal of claims on the Final Approval Date under Section IV.A, the Court shall retain continuing jurisdiction to oversee and enforce this Agreement until two-hundred (200) days after the date the Final Accounting in Section V.F is completed.

XVII. INTEGRATION

This Agreement and its Exhibits constitute the entire agreement of the Parties, and no prior statement, representation, agreement, or understanding, oral or written, that is not contained herein, will have any force or effect.

XVIII. MODIFICATION

- A. Before the Preliminary Approval Date, this Agreement, including the attached exhibits, may be modified upon written agreement of the Parties.
- B. After the Preliminary Approval Date, this Agreement, including the attached exhibits, may be modified only with the written agreement of the Parties and with

the approval of the Court, upon such notice to the Class, if any, as the Court may require.

XIX. DUTIES CONSISTENT WITH LAW AND REGULATIONS

Nothing contained in this Agreement shall impose on the Secretary any duty, obligation, or requirement, the performance of which would be inconsistent with federal statutes or federal regulations in effect at the time of such performance.

XX. DUTY TO DEFEND

The Parties to this Agreement shall defend against any challenges to it in any forum.

XXI. HEADINGS

The headings in this Agreement are for the convenience of the Parties only and shall not limit, expand, modify, or aid in the interpretation or construction of this Agreement.

XXII. SEVERABILITY

Should any non-material provision of this Agreement be found by a court to be invalid or unenforceable, then (A) the validity of other provisions of this Agreement shall not be affected or impaired, and (B) such provisions shall be enforced to the maximum extent possible.

XXIII. COUNTERPARTS

This Agreement may be executed in counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have executed this Settlement Agreement:

For the Signatory Plaintiffs:



Henry Sanders, Esq.
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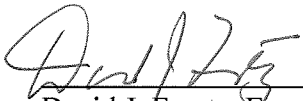
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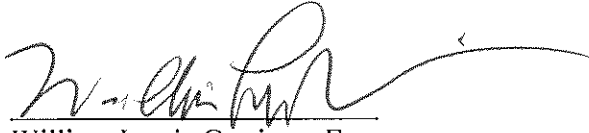
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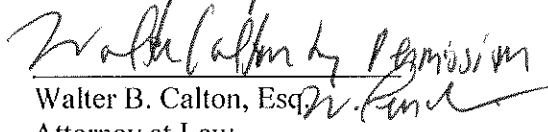
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Dated: 3-24-11



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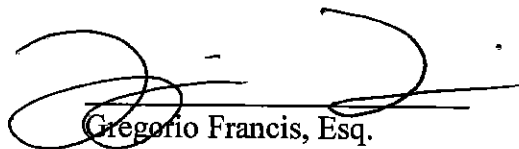
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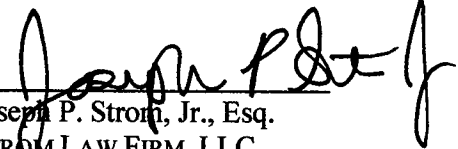
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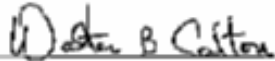
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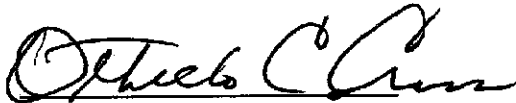


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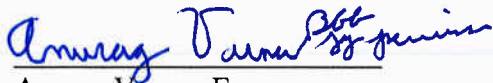
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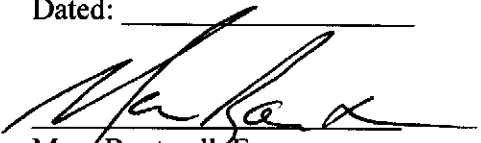
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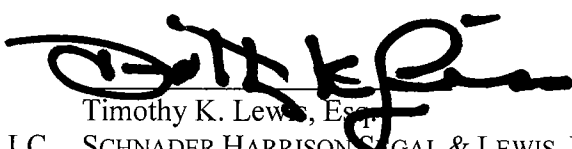
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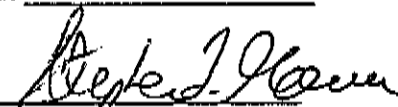
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APPENDIX 1

Calculation of Final Awards

- I. Pursuant to Section V.E.5 of the Settlement Agreement, individual Track A Awards and Track B Awards are calculated as follows:
 - A. In order to calculate each Class Member's Final Award(s), the Claims Administrator shall do as follows:
 1. First, if the sum total of all Track B Awards exceeds the Track B Cap,
 - a. The Claims Administrator shall divide each Class Member's Track B Award by the sum total of all Track B Awards to obtain that Class Member's "Track B Percentage."
 - b. Then, the Claims Administrator shall multiply each Class Member's Track B Percentage by the Track B Cap to obtain the Class Member's "Modified Track B Award." The Claims Administrator shall then replace the Track B Award indicated in Part V of the Class Member's Track B Determination Form with his or her Modified Track B Award. This Modified Track B Award shall serve as the Class Member's "Track B Award" or "Provisional Track B Award" for purposes of this Section.
 2. Next, the Claims Administrator shall calculate the Sum of Available Funds and the Sum of Awards. The Sum of Available Funds is the lesser of (a) the sum of the 2010 Funds plus the 2008 Funds, minus the difference between the Fee Award and the product of the cap on Track B Fees set by the Court in Settlement Agreement Section X.A multiplied by the Sum of Provisional Track B Awards (as modified by Appx. Section I.A.1), minus the incurred and anticipated final Implementation Costs, minus the incurred and anticipated Ombudsman Costs; or (b) the sum of all Provisional Track A Liquidated Awards, Provisional Track A Loan Awards, Provisional Track A Tax Awards, and Provisional Track B Awards, as shown on Part V of the Track A Claim Determination Forms (Ex. A). The Sum of Awards is the sum of all Provisional Track A Liquidated Awards, Provisional Track A Loan Awards, Provisional Track A Tax Awards, and Provisional Track B Awards, as shown on Part V of the Track A and Track B Claim Determination Forms (Exs. A and B).
 3. If the Sum of Available Funds is equal to or exceeds the Sum of Awards, each prevailing Track A Class Member's Final Track A Liquidated Award, if applicable, shall be equal to the Provisional Track A Liquidated Award in Part V of that Class Member's Track A Claim Determination Form (Ex. A). Each prevailing Track A Class Member's Final Track A Loan Award, if applicable, shall be equal to the Provisional Track A Loan Award in Part V of that Class Member's Track A Claim Determination Form. Each prevailing Track A Class Member's Final Track A Tax Award, if applicable, shall be equal to the Provisional Track A Tax Award in Part V of that Class Member's Track A Claim Determination Form. Each prevailing Track B Class Member's Final Track B

Award, if applicable, shall be equal to the Provisional Track B Award in Part V of that Class Member's Track B Claim Determination Form (Ex. B).

4. If the Sum of Available Funds is less than the Sum of Awards:
 - a. For each prevailing Class Member whose Late-Filing Request was submitted after September 15, 2000, the Claims Administrator shall reduce by 30% the Class Member's Provisional Track A Liquidated Award, Provisional Track A Loan Award, Provisional Track A Tax Award, and Provisional Track B Award, and so modify Part V of the Class Member's Track A or Track B Claim Determination Form. The Claims Administrator shall then recalculate the total of all Provisional Track A Awards and Provisional Track B Awards to obtain a Revised Sum of Awards.
 - (1) If the Revised Sum of Awards is more than the Sum of Available Funds,
 - (a) The Claims Administrator shall divide the Sum of Available Funds by the Revised Sum of Awards to obtain a percentage. This percentage shall be called the "Second Percentage."
 - (b) Each prevailing Track A Class Member's Revised Track A Liquidated Award, if applicable, shall be equal to the Second Percentage multiplied by the Provisional Track A Liquidated Award in Part V of that Class Member's Track A Claim Determination Form (Ex. A). Each prevailing Track A Class Member's Revised Track A Loan Award, if applicable, shall be equal to the Second Percentage multiplied by the Provisional Track A Loan Award in Part V of that Class Member's Track A Claim Determination Form. Each prevailing Track A Class Member's Revised Track A Tax Award, if applicable, shall be equal to the Second Percentage multiplied by the Provisional Track A Tax Award in Part V of that Class Member's Track A Claim Determination Form multiplied by the Second Percentage. Each prevailing Track B Class Member's Revised Track B Award, if applicable, shall be equal to the Second Percentage multiplied by the Provisional Track B Award in Part V of that Class Member's Track B Claim Determination Form (Ex. B).
 - (2) If the Revised Sum of Awards is less than the Sum of Available Funds,
 - (a) First, the Claims Administrator shall subtract the Revised Sum of Awards from the Sum of Available Funds to

determine the “Leftover Interim Reduced Funds.”

- (b) Second, for each Class Member subject to the 30% reduction, the Claims Administrator shall calculate that Class Member’s “Percentage of Leftover Reduced Funds” by dividing the Class Member’s Provisional Track A or Track B Award (reduced by 30%) by the sum of all Provisional Awards subject to the 30% reduction.
- (c) Third, for each Class Member subject to the 30% reduction, the Claims Administrator shall multiply the Class Member’s Percentage of Leftover Reduced Funds times the Leftover Interim Reduced Awards to obtain that Class Member’s “Leftover Funds Enhancement.”
- (d) Fourth, for each Class Member subject to the 30% reduction, the Claims Administrator shall (a) divide the Class Member’s Provisional Track A Liquidated Award by the Class Member’s Provisional Track A Award to obtain the Class Member’s “Liquidated Award Percentage,” (b) divide the Class Member’s Provisional Track A Loan Award by the Class Member’s Provisional Track A Award to obtain the Class Member’s “Loan Award Percentage,” and (c) divide the Class Member’s Provisional Track A Tax Award by the Class Member’s Provisional Track A Award to obtain the Class Member’s “Tax Award Percentage.”
- (e) For each Class Member subject to the 30% reduction,
 - (i) The Class Member’s Revised Track A Liquidated Award, if applicable, shall be equal to the sum of (1) the Class Member’s Liquidated Award Percentage multiplied by the Leftover Funds Enhancement, and (2) 70% of the Provisional Track A Liquidated Award in Part V of that Class Member’s Track A Claim Determination Form (Ex. A).
 - (ii) The Class Member’s Revised Track A Loan Award, if applicable, shall be equal to the sum of (1) the Class Member’s Loan Award Percentage multiplied by the Leftover Funds Enhancement, and (2) 70% of the Provisional Track A Loan Award in Part V of that Class Member’s Track A Claim Determination Form (Ex. A).
 - (iii) The Class Member’s Revised Track A Tax Award, if applicable, shall be equal to the sum of (1) the

Class Member's Tax Award Percentage multiplied by the Leftover Funds Enhancement, and (2) 70% of the Provisional Track A Tax Award in Part V of that Class Member's Track A Claim Determination Form (Ex. A).

(iv) The Class Member's Revised Track B Award, if applicable, shall be equal to the sum of (1) the Class Member's Leftover Funds Enhancement, and (2) 70% of the Provisional Track B Award in Part V of that Class Member's Track B Claim Determination Form (Ex. B).

(f) For each Class Member not subject to the 30% reduction,

(i) The Class Member's Revised Track A Liquidated Award, if applicable, shall be equal to the Provisional Track A Liquidated Award in Part V of that Class Member's Track A Claim Determination Form (Ex. A).

(ii) The Class Member's Revised Track A Loan Award, if applicable, shall be equal to the Provisional Track A Loan Award in Part V of that Class Member's Track A Claim Determination Form (Ex. A).

(iii) The Class Member's Revised Track A Tax Award, if applicable, shall be equal to the Provisional Track A Tax Award in Part V of that Class Member's Track A Claim Determination Form (Ex. A).

(iv) The Class Member's Revised Track B Award, if applicable, shall be equal to the Provisional Track B Award in Part V of that Class Member's Track B Claim Determination Form (Ex. B).

B. Next, the Claims Administrator shall calculate the Provisional Track B Fee for each Class Member by multiplying each Class Member's Revised Track B Award by the fee percentage indicated by the Class Member in Part IX of the Class Member's Claim Form. The Claims Administrator shall then calculate the sum of all Provisional Track B Fees.

C. If the Claims Administrator determined that the Sum of Available Funds was less than the Sum of Awards (*i.e.*, Revised Awards were calculated under Appx. Section I.A.4), then the Claims Administrator shall calculate the Class Member's Final Awards as follows:

1. If the Sum of Available Funds was calculated using Appx. Section I.A.2.(a), the Claims Administrator shall divide (1) the Sum of Available Funds minus (a) the

difference between (i) the cap on Track B Fees set by the Court in Settlement Agreement Section X.A multiplied by the Sum of Provisional Track B Awards and (ii) all Track B Fees calculated in Appx. Section I.B by (2) the Sum of Available Funds, to obtain the “Available Funds Multiplier.” The Claims Administrator shall then calculate each Class Member’s Final Track A Liquidated Award, Final Track A Loan Award, Final Track A Tax Award, Final Track B Award, and Final Track B Fee by multiplying each Revised Award by the Available Funds Multiplier.

2. If the Sum of Available Funds was calculated using Section I.A.2.(b), the Revised Awards calculated in Appx. Section I.A.4 are the Class Members’ Final Awards, and the Provisional Track B Fee calculated in Section I.B, if applicable, is the Class Member’s Final Track B Fee.

Appendix 1a

SETTLEMENT AGREEMENT
in *In re Black Farmers Discrimination Litigation*,
Civil Action No. 1:08-mc-0511 (PLF)

EXAMPLES OF CLAIM CALCULATIONS

The following provides illustrative examples to demonstrate how variations in the number of successful Claimants may affect the amount of the payments made to successful Class Members, as determined by the procedures set forth in Appendix 1 of the Settlement Agreement. Calculation of Final Awards under the Settlement is a two-step process. First, the Claims Administrator must apply the aggregate Track B Cap to the Track B Awards. After that is done, the Claims Administrator must determine whether reductions apply to each award based on the number of successful Class Members and the availability of funds. These types of calculations are illustrated below.

I. Application of Track B Cap

Under the terms of the Settlement Agreement, successful Track B Class Members are entitled to an award equal to “the amount of [their] actual damages, up to \$250,000.” However, Track B Awards, in the aggregate, are capped at \$100 million. Thus, assuming the total funding appropriated by Congress for black farmer claims is \$1.25 billion, the total of all Track B Awards would be capped at \$100 million.

The following chart illustrates the application of the Track B Cap, as prescribed by Section I.A.1 of Appendix 1. For illustrative purposes, we assume a \$100 million Track B Cap applies, and that only two uniform groups of successful Track B Claimants are entitled to awards – (1) Group B1, each member of which is eligible for a \$250,000 Track B Award (based on proof of actual damages of \$250,000 or more); and (2) Group B2, each member of which is eligible for a \$100,000 Track B Award (based on proof of actual damages of \$100,000).

Number of Successful Track B Claimants	Total Amount of Proven Claims	Percent of Track B Award Provided After Application of Track B Cap	Adjusted Track B Award after Application of the Track B Cap
Group B1 – 100 Claimants (\$250,000 per claim) Group B2 – 500 Claimants (\$100,000 per claim)	\$75 million	100%	Group B1 – <i>\$250,000 per claim</i> Group B2 – <i>\$100,000 per claim</i>
Group B1 – 500 Claimants (\$250,000 per claim) Group B2 – 750 Claimants (\$100,000 per claim)	\$200 million	50%	Group B1 – <i>\$125,000 per claim</i> Group B2 – <i>\$50,000 per claim</i>
Group B1 – 1,000 Claimants (\$250,000 per claim) Group B2 – 1,500 Claimants (\$100,000 per claim)	\$400 million	25%	Group B1 – <i>\$62,500 per claim</i> Group B2 – <i>\$25,000 per claim</i>

II. Calculation of Awards After Application of the Track B Cap

After application of the Track B Cap to Track B Awards, the Claims Administrator is required to calculate the Final Award for each successful Class Member based on the number of successful Class Members and the overall availability of funds.

Under the Settlement, Track A Class Members are eligible to recover three categories of damages:

(1) liquidated damages of \$50,000 for credit claims and/or \$3,000 for non-credit claims; (2) a loan award equal to the amount of outstanding debt the Class Member owes to USDA/FSA; and (3) a tax award equal to 25% of the sum of the liquidated damages award and the loan award.

The Settlement makes a distinction between “*Late Filers*” – *i.e.*, those Class Members who filed Late-Filing Requests in *Pigford* on or between October 13, 1999 and September 15, 2000 – and “*Late-Late Filers*” – *i.e.*, those Class Members who filed Late-Filing Requests in *Pigford* on or between September 16, 2000 and June 18, 2008. To the extent that Congress does not appropriate sufficient funds to pay all Track A and Track B Class Members in full, the Settlement Agreement provides for a reduction of up to 30% in the awards for Late-Late Filers.

If a 30% reduction for Late-Late Filers is insufficient to bring total awards within the amount of available funds, all awards to successful Class Members – both Late Filers and Late-Late Filers – will be subject to reduction to conform the awards to the amount of available funds.

The following chart illustrates the calculations prescribed by Section I.A.2-4, I.B, and I.C. of Appendix 1, based on variation in the number of successful Class Members.

Final Awards for Track A and Track B Class Members

	Number of Successful Class Members by Type	Total Number of Successful Class Members	Amount of Awards (With “Lower Costs”/With “Higher Costs”)			
			Track A Late Filers (A1) (per claim)	Track A Late-Late Filers (A2) (per claim)	Track B Late Filers (B1) (per claim)	Track B Late-Late Filers (B2) (per claim)
Scenario #1	Group A1 (“Late Filers”) = 6,000 Claimants Group A2 (“Late-Late Filers”) = 1,500 Claimants Group B1 (“Late Filers”) = 200 Claimants Group B2 (“Late-Late Filers”) = 100 Claimants	7,800	\$75,000 / \$75,000	\$75,000 / \$75,000	\$250,000 / \$250,000	\$250,000 / \$250,000
Scenario #2	Group A1 (“Late Filers”) = 9,600 Claimants Group A2 (“Late-Late Filers”) = 2,400 Claimants Group B1 (“Late Filers”) = 200 Claimants Group B2 (“Late-Late Filers”) = 100 Claimants	12,300	\$75,000 / \$75,000	\$75,000 / \$75,000	\$250,000 / \$250,000	\$250,000 / \$250,000
Scenario #3	Group A1 (“Late Filers”) = 12,000 Claimants Group A2 (“Late-Late Filers”) = 3,000 Claimants Group B1 (“Late Filers”) = 200 Claimants Group B2 (“Late-Late Filers”) = 100 Claimants	15,300	\$75,000 / \$74,847	\$70,410 / \$52,393	\$250,000 / \$249,490	\$234,700 / \$174,643
Scenario #4	Group A1 (“Late Filers”) = 20,000 Claimants Group A2 (“Late-Late Filers”) = 5,000 Claimants Group B1 (“Late Filers”) = 200 Claimants Group B2 (“Late-Late Filers”) = 100 Claimants	25,300	\$48,555 / \$46,012	\$33,989 / \$32,208	\$161,850 / \$153,375	\$113,295 / \$107,363
Scenario #5	Group A1 (“Late Filers”) = 40,000 Claimants Group A2 (“Late-Late Filers”) = 10,000 Claimants Group B1 (“Late Filers”) = 200 Claimants Group B2 (“Late-Late Filers”) = 100 Claimants	50,300	\$24,735 / \$23,438	\$17,315 / \$16,406	\$82,450 / \$78,125	\$57,715 / \$54,688

The numbers used in this chart are for illustrative purposes only. The sole purpose of this chart is to show how the array of variables might affect the actual recovery of a successful claimant. Even if Congress appropriates the full \$1.25 billion that has been sought to fund this settlement, the figures used in this chart should not be relied on as a predictor of how much a successful Track A Claimant will recover because that figure cannot be computed until the total number of successful claimants is established and the actual amounts of Implementation Costs, Ombudsman Costs, and attorneys’ fees are determined.

Accordingly, for illustrative purposes only, this chart assumes that (1) Congress appropriates \$1.25 billion to pay successful Section 14012 Claimants; (2) all successful Track A claimants receive a total award of \$75,000 (including liquidated damages, debt relief, and tax relief); and (3) all successful Track B claimants receive a total award of \$250,000. From there, this chart computes a range of recoveries using different assumptions regarding the number of successful claimants and estimates for the total of Implementation Costs, Ombudsman Costs, and attorneys’ fees that would be deducted from the available settlement funds prior to the calculation and distribution of awards. For purposes of this illustrative chart, the “Lower Costs” figure assumes \$15 million for Implementation Costs and Ombudsman Costs, and attorneys’ fees of 4.1%. The “Higher Costs” figure assumes \$35 million for Implementation Costs and Ombudsman Costs, and attorneys’ fees of 7.4%.

EXHIBIT A

SETTLEMENT AGREEMENT

**in *In re Black Farmers Discrimination Litigation*,
Civil Action No. 1:08-mc-0511 (PLF)**

“TRACK A” CLAIM DETERMINATION FORM

PART I. CLAIMANT INFORMATION (TO BE COMPLETED BY THE CLAIMS ADMINISTRATOR)

Claimant's Name (First, Middle, Last)

_____-_____-_____
Claimant's Social Security/Taxpayer
I.D. Number

Claimant's Mailing Address/City/State/Zip

Claimant Identification Number

Claimant's Phone Number

Claimant's Alternate Phone Number

_____/_____/_____
Claimant's Date of Birth

Attorney's Name (First, Middle, Last), if applicable

Attorney's Mailing Address/City/State/Zip

Attorney's Phone Number

Submitter's Name (First, Middle, Last), if applicable

_____-_____-_____
Submitter's Social Security/Taxpayer
I.D. Number

Submitter's Mailing Address/City/State/Zip

Submitter's Phone Number

PART II. SUMMARY OF CLAIM DETERMINATION (TO BE COMPLETED BY THE CLAIMS ADMINISTRATOR)

☐ **Your Claim is APPROVED.** Your Total Award is \$_____. From this amount, a payment of \$_____ has been made on your behalf to the IRS to reduce your expected tax liability associated with this award, and a payment of \$_____ has been made on your behalf to USDA/FSA to reduce your outstanding Farm Loan Program debt. Enclosed with this Form is a check for the remaining \$_____. (See Part III)

☐ **Your Claim is DENIED.** (See Part IV)

Claimant's Name (First, Middle, Last)

Claimant ID Number

Claimant's Social Security/Taxpayer I.D. Number

PART III. EXPLANATION OF APPROVED CLAIM (TO BE COMPLETED BY THE CLAIMS ADMINISTRATOR)

Several months ago, you submitted a Track A claim to the Non-Judicial Claims Process under the Settlement Agreement in *In re Black Farmers Discrimination Litigation*, Civ. No. 1:08-mc-0511 (D.D.C.). Since that time, a Neutral has determined that your claim is APPROVED. Enclosed with this Form is a check containing your award. A payment to the Internal Revenue Service (IRS) to reduce your expected tax liability associated with this award has been made on your behalf. If you obtained a Track A Loan Award, a payment to U.S. Department of Agriculture, Farm Service Agency (USDA/FSA) to reduce outstanding Farm Loan Program debt has also been made on your behalf.

Based on the materials you submitted, the following claims were APPROVED:

- ☐ Track A Credit Claim
- ☐ Track A Non-Credit Claim

AWARD YOU RECEIVE**TRACK A CREDIT CLAIM**

Track A Liquidated Award: \$ _____

Track A Loan Award: \$ _____

Subtotal (Liquidated Award + Loan Award): \$ _____

Track A Tax Award (25% multiplied by the subtotal): \$ _____

TOTAL TRACK A CREDIT CLAIM AWARD:

\$ _____

TRACK A NON-CREDIT CLAIM.

TOTAL TRACK A NON-CREDIT CLAIM AWARD:

\$ _____

TOTAL AWARD: \$ _____

Claimant's Name (First, Middle, Last)

Claimant ID Number

Claimant's Social Security/Taxpayer I.D. Number

PAYMENTS MADE AND MONEY YOU RECEIVE

If you received a Loan Award or a Tax Award on a Track A Credit Claim, those payments have already been made by the Claims Administrator to USDA/FSA and the IRS respectively on your behalf. The check contained herein is the remainder of your total award.

\$ _____ (Total Award)

– \$ _____ (Total Track A Loan Award Made to USDA/FSA)

– \$ _____ (Total Track A Tax Award Made to IRS)

CHECK YOU RECEIVE: \$ _____

NOTE: You are responsible for compliance with all applicable federal, state, and local tax requirements that arise as a result of this award. You are encouraged to consult a tax professional if you have any questions about these requirements.

NOTE: If you received a Loan Award (debt payment) as part of your Track A Award, it is possible that the payment did not satisfy the entire amount outstanding on your USDA/FSA loan. In that event, you are responsible for paying the remainder of your outstanding debt. Interest on your debt will continue to accrue unless and until you pay your debt in full, and USDA/FSA maintains any and all options for servicing and recovering outstanding debt, including but not limited to acceleration and foreclosure.

QUESTIONS

If you have any questions, you may contact Class Counsel at **[Phone]**

Claimant's Name (First, Middle, Last)

Claimant ID Number

Claimant's Social Security/Taxpayer I.D. Number

PART IV. EXPLANATION OF DENIED CLAIM (TO BE COMPLETED BY THE TRACK A NEUTRAL)

Several months ago, you submitted a Track A claim to the Non-Judicial Claims Process under the Settlement Agreement in *In re Black Farmers Discrimination Litigation*, Civ. No. 1:08-mc-0511 (D.D.C.). Since that time, a Neutral has determined that your claim is DENIED.

Your claim is DENIED because (check all that apply):

- ☐ You failed to prove that you are an African-American farmer.
- ☐ You failed to prove that you farmed, or attempted to farm, between January 1, 1981, and December 31, 1996.
- ☐ You failed to prove that you owned or leased, or attempted to own or lease, farm land.
- ☐ You failed to prove that you applied, or constructively applied, for a specific farm credit transaction or non-credit benefit at a USDA office between January 1, 1981, and December 31, 1996.
- ☐ You failed to prove that the farm loan or non-credit benefit for which you applied was denied, provided late, approved for a lesser amount than requested, encumbered by a restrictive condition, or that USDA failed to provide an appropriate loan service.
- ☐ You failed to prove that USDA's treatment of your loan or non-credit benefit application led to economic damage to you.
- ☐ You failed to prove that you complained of discrimination to an official of the United States Government on or before July 1, 1997, regarding USDA's treatment of you in response to your application.

THIS DECISION IS FINAL. IT IS NOT REVIEWABLE BY THE CLAIMS ADMINISTRATOR, THE TRACK A NEUTRAL, THE TRACK B NEUTRAL, THE COURT, OR ANY OTHER PARTY OR BODY, JUDICIAL OR OTHERWISE.

IMPACT ON OUTSTANDING LOAN OBLIGATIONS: Please note that if you are not current on loan payments you owe the USDA, the Secretary of Agriculture may, in view of the denial of your claim, proceed immediately with any loan acceleration or foreclosure proceedings he believes are appropriate.

Claimant's Name (First, Middle, Last)

Claimant ID Number

Claimant's Social Security/Taxpayer I.D. Number

PART V. PROVISIONAL AWARD FOR APPROVED CLAIMS (TO BE COMPLETED BY THE TRACK A NEUTRAL)

The Claimant is eligible for the following Track A award(s), subject to reduction:

- ☐ **TRACK A CREDIT CLAIM.** The Track A Credit Claim is APPROVED. The Claimant is eligible for an award, subject to reduction, as follows:

Track A Liquidated Award (\$50,000): \$ _____

Track A Loan Award: _____ \$ _____
FSA Account Number_____ \$ _____
FSA Account Number_____ \$ _____
FSA Account Number**Subtotal (Liquidated Award + Loan Award):** \$ _____

Track A Tax Award (25% multiplied by the subtotal): \$ _____

TOTAL TRACK A CREDIT CLAIM AWARD:

\$ _____

- ☐ **TRACK A NON-CREDIT CLAIM.** The Track A Non-Credit Claim is APPROVED. The Claimant is eligible for an award, subject to reduction, as follows:

TOTAL TRACK A NON-CREDIT CLAIM AWARD (\$3,000):

\$ _____

TOTAL AWARD: \$ _____

Claimant's Name (First, Middle, Last)

Claimant ID Number

Claimant's Social Security/Taxpayer I.D. Number

PART VI. DATE OF LATE-FILING REQUEST (TO BE COMPLETED BY THE CLAIMS ADMINISTRATOR)

- ☐ The Class Member submitted a Late-Filing Request in *Pigford* on or before September 15, 2000.
- ☐ The Class Member submitted a Late-Filing Request in *Pigford* after September 15, 2000.

EXHIBIT B

SETTLEMENT AGREEMENT
in *In re Black Farmers Discrimination Litigation*,
Civil Action No. 1:08-mc-0511 (PLF)

“TRACK B” CLAIM DETERMINATION FORM

PART I. CLAIMANT INFORMATION (TO BE COMPLETED BY THE CLAIMS ADMINISTRATOR)

Claimant's Name (First, Middle, Last)

_____-_____-_____
Claimant's Social Security/Taxpayer
I.D. Number

Claimant's Mailing Address/City/State/Zip

Claimant Identification Number

Claimant's Phone Number

Claimant's Alternate Phone Number

_____/_____/_____
Claimant's Date of Birth

Attorney's Name (First, Middle, Last), if applicable

Attorney's Mailing Address/City/State/Zip

Attorney's Phone Number

Submitter's Name (First, Middle, Last), if applicable

_____-_____-_____
Submitter's Social Security/Taxpayer
I.D. Number

Submitter's Mailing Address/City/State/Zip

Submitter's Phone Number

PART II. SUMMARY OF CLAIM DETERMINATION (TO BE COMPLETED BY THE CLAIMS ADMINISTRATOR)

☐

Your Claim is APPROVED. Your Award is \$_____. From this amount, a payment of \$_____ has been made on your behalf to your attorney to pay his or her fees, costs, and expenses. Enclosed with this Form is a check for the remaining \$_____. (See Part III)

☐

Your Claim is DENIED. (See Part IV)

Claimant's Name (First, Middle, Last)

Claimant ID Number

Claimant's Social Security/Taxpayer I.D. Number

PART III. EXPLANATION OF APPROVED CLAIM (TO BE COMPLETED BY THE CLAIMS ADMINISTRATOR)

Several months ago, you submitted a Track B claim to the Non-Judicial Claims Process under the Settlement Agreement in *In re Black Farmers Discrimination Litigation*, Civ. No. 1:08-mc-511 (D.D.C.). Since that time, a Neutral has determined that your claim is APPROVED.

AWARD YOU RECEIVE

TOTAL AWARD: \$ _____

PAYMENTS MADE AND MONEY YOU RECEIVE

Payments to your attorney are made automatically from your award. On your Claim Form, you indicated that you and your attorney have negotiated a Track B Fee of _____% of your Track B Award.

 \$ _____ (Total Award)

– \$ _____ (Attorney's Fees, Costs, and Expenses)

CHECK YOU RECEIVE: \$ _____

NOTE: You are responsible for compliance with all applicable federal, state, and local tax requirements that arise as a result of this award. You are encouraged to consult a tax professional if you have any questions about these requirements.

QUESTIONS

If you have any questions, you may contact Class Counsel at [**Phone**].

Claimant's Name (First, Middle, Last)

Claimant ID Number

Claimant's Social Security/Taxpayer I.D. Number

PART IV. EXPLANATION OF DENIED CLAIM (TO BE COMPLETED BY THE TRACK B NEUTRAL)

Several months ago, you submitted a Track B claim to the Non-Judicial Claims Process under the Settlement Agreement in *In re Black Farmers Discrimination Litigation*, Civ. No. 1:08-mc-511 (D.D.C.). Since that time, a Neutral has determined that your claim is DENIED.

Your claim is DENIED because (check all that apply):

- ☐ You failed to prove that you are an African-American farmer.
- ☐ You failed to prove that you farmed, or attempted to farm, between January 1, 1981, and December 31, 1996.
- ☐ You failed to prove that you owned or leased, or attempted to own or lease, farm land.
- ☐ You failed to prove that you applied for a specific farm credit transaction at a USDA office between January 1, 1981, and December 31, 1996.
- ☐ You failed to prove that the farm loan for which you applied was denied, provided late, approved for a lesser amount than requested, encumbered by a restrictive condition, or that USDA failed to provide an appropriate loan service.
- ☐ You failed to prove that USDA's treatment of your loan application was less favorable than that accorded a specifically identified similarly situated white farmer.
- ☐ You failed to prove that USDA's treatment of your loan application led to economic damage to you.
- ☐ You failed to prove that you complained of discrimination to an official of the United States Government on or before July 1, 1997, regarding USDA's treatment of you in response to your application.

THIS DECISION IS FINAL. IT IS NOT REVIEWABLE BY THE CLAIMS ADMINISTRATOR, THE TRACK A NEUTRAL, THE TRACK B NEUTRAL, THE COURT, OR ANY OTHER PARTY OR BODY, JUDICIAL OR OTHERWISE.

IMPACT ON OUTSTANDING LOAN OBLIGATIONS: Please note that if you are not current on loan payments you owe the USDA, the Secretary of Agriculture may, in view of the denial of your claim, proceed immediately with any loan acceleration or foreclosure proceedings he believes are appropriate.

EXHIBIT C

CLAIM FORM**In re Black Farmers Discrimination Litigation****Civil Action No. 1:08-mc-0511 (PLF)**

For help in completing this Form

call us toll-free at **1-877-810-8110**or email **questions@blackfarmerscase.com**

Please print or type clearly in the spaces provided below. Do not use pencil, red ink or staples.

1. CLAIMANT INFORMATION

If you are filing a claim on behalf of a deceased Claimant or a Claimant who is unable to submit a claim for himself or herself due to physical or mental limitation, you must complete Section 4 of this Claim Form on the following page.

_____	_____	_____
First Name	Middle	Last Name
_____		_____
Business Name, if applicable		Email Address

Mailing Address, including apartment, unit or box number		
_____	_____	_____
City	State	Zip
_____		_____
SSN or Taxpayer ID Number		Primary Phone Number
_____	_____	_____
SSN or Taxpayer ID Number	Date of Birth	Additional Phone Number

Pigford Tracking Number, if known		

2. CO-CLAIMANT INFORMATION

If applicable, list all individuals who were, or would have been, co-applicants to the loan application which is the subject of this claim of unfavorable treatment.

Enclose extra sheets if you need to list more than two co-applicants.

First Co-Claimant		
_____	_____	_____
First Name	Middle	Last Name
_____	_____	_____
SSN or Taxpayer ID Number	Date of Birth	Phone Number
_____		_____
Relationship to Claimant		Email Address
Second Co-Claimant		
_____	_____	_____
First Name	Middle	Last Name
_____	_____	_____
SSN or Taxpayer ID Number	Date of Birth	Phone Number
_____		_____
Relationship to Claimant		Email Address

3. CLAIMANT'S COUNSEL INFORMATION

If applicable, provide information about the lawyer representing the claimant.

_____	_____	_____
First Name	Middle	Last Name
_____		_____
Business Name, if applicable		Email Address

Mailing Address, including apartment, unit or box number		
_____	_____	_____
City	State	Zip
_____		_____
Primary Phone Number		

CLAIM FORM**In re Black Farmers Discrimination Litigation****Civil Action No. 1:08-mc-0511 (PLF)**

For help in completing this Form

call us toll-free at **1-877-810-8110**or email **questions@blackfarmerscase.com**

Section 4 Instructions: If you are submitting a claim on behalf of a deceased claimant or a claimant who is unable to submit his or her claim due to physical or mental limitation, list that claimant in Part I and complete this section with YOUR information.

4. FOR DECEASED CLAIMANTS OR THOSE WITH MENTAL OR PHYSICAL LIMITATIONS

If you are filing a claim on behalf of a deceased Claimant or a Claimant who is unable to submit a claim for himself or herself due to physical or mental limitation, you must complete one of the sections below, as applicable, with YOUR information, not the Claimant's.

The claimant is ☐ Deceased ☐ Unable to submit a claim due to mental or physical limitation

Preparer's First Name

Middle

Last Name

Mailing Address, including apartment, unit or box number

City

State

Zip

Primary Phone Number

SSN or Taxpayer ID Number

Date of Birth

Additional Phone Number

Email Address

Relationship to Claimant

FOR DECEASED CLAIMANTS

If you are submitting a claim on behalf of a deceased claimant, you must submit a copy of a death certificate with this Claim Form and answer these questions.

If an estate for the claimant exists, provide the estate's Taxpayer ID Number _____

Is the claimant's death certificate included with this Claim Form?

☐ Yes☐ No

Are you the claimant's Legal Representative?

☐ Yes☐ No

If Yes, you must submit proof of legal representation with this Claim Form.

If No, explain why you believe you will be appointed the legal representative of the claimant's estate below.

NOTE: "Legal Representative" is the person filing a claim on the claimant's behalf, not the claimant's lawyer.

THOSE UNABLE TO SUBMIT A CLAIM DUE TO PHYSICAL OR MENTAL LIMITATIONS

If you are submitting a claim on behalf of a claimant who is unable to do so because of a disability, complete this section.

Are you the claimant's Legal Representative?

☐ Yes☐ No

If Yes, you must submit proof of legal representation with this Claim Form.

If No, you must explain below why the claimant is unable to submit a claim on his or her own behalf and why you assert a right to do so on the claimant's behalf.

NOTE: "Legal Representative" is the person filing a claim on the claimant's behalf, not the claimant's lawyer.

CLAIM FORM**In re Black Farmers Discrimination Litigation****Civil Action No. 1:08-mc-0511 (PLF)**

For help in completing this Form

call us toll-free at **1-877-810-8110**or email **questions@blackfarmerscase.com**

Section 5 Instructions: Complete this Section with information about the Claimant identified in Part 1.

5. CLASS MEMBERSHIP

You are required to answer both questions in this section to verify your eligibility for Class Membership.

- A.** Did you submit a late-filing request under Section 5(g) of the Pigford Consent Decree after October 12, 1999, and before June 19, 2008?

☐ Yes☐ No

Section 5(g) of the Pigford Consent Decree permitted a black farmer who missed the Pigford claim deadline (October 12, 1999) to file a request to participate in the Pigford claims process late. To answer **Yes** above, your late-filing request must have been submitted to the Pigford Facilitator, Pigford Monitor, a Pigford Adjudicator, the Pigford Arbitrator, or the Court.

If **Yes**, you may need to submit independent documentary evidence of your late-filing request along with this Claim Form to the Claims Administrator. If your name appears on the Pigford Timely 5(g) List, a list maintained by the Claims Administrator with records of claimants who filed late-filing requests after October 12, 1999 and on or before September 15, 2000, then you have met this requirement and do not need to submit additional documentation of your late-filing request. Call the Claims Administrator at 1-877-810-8110 to find out if you are on the Pigford Timely 5(g) List.

If your name does not appear on the Pigford Timely 5(g) List, you must submit independent documentary evidence that establishes, by a preponderance of the evidence, that you submitted a late-filing request after October 12, 1999 and before June 19, 2008. Without this independent documentary evidence – which must be submitted with this Claim Form – you will not be able to participate in this case.

- B.** Have you already obtained a determination on the merits of your discrimination complaint?

☐ Yes☐ No

You will be deemed to have a determination on the merits of your discrimination complaint and ineligible for relief if:

- Your name appears on the Pigford Participants List, a list of all claimants whose claims were heard in Pigford v. Glickman, or the Pigford Opt-Out List, a list of those claimants who opted out of Pigford v. Glickman. Call the Claims Administrator at 1-877-810-8110 to find out if you are on either of these lists.
- You have obtained a judgment from a judicial or administrative forum on the basis of the race discrimination claim that provides the basis of your discrimination complaint; or
- The Claims Administrator otherwise determines that you already have obtained a determination on the merits of your discrimination complaint.

6. CLAIMANT ACKNOWLEDGEMENTS

Before your claim can be considered, you must acknowledge that you have read and understood several requirements of the claims process. Please indicate your acknowledgement by checking the boxes at the right of each statement.

- A.** You acknowledge that you will be bound by the Neutral's ruling on your claim, and that the Neutral's determination will be the final determination on your claims. You forever and finally waive the right to seek review of this determination in any court or before any tribunal and forever and finally release USDA from any and all claims raised that have been or could have been raised in **In re Black Farmers Discrimination Litigation**.

☐ Acknowledged

- B.** If you submit a claim under Track A and it is determined to be meritorious by the Claims Administrator, you may receive a payment to reduce or discharge eligible outstanding United States Department of Agriculture (USDA)/Farm Service Agency (FSA) debt. This payment will be made directly to USDA/FSA on your behalf. You acknowledge this payment may not fully discharge your outstanding debts to USDA/FSA. You further acknowledge neither USDA/FSA nor the United States will forgive any debt(s) as the result of the determination in your favor. Interest on your debt will continue to accrue unless and until you fully pay your debt. USDA/FSA maintains any and all options for servicing and recovering outstanding debt, including, but not limited to, acceleration and foreclosure, except that any acceleration and foreclosure action is stayed during the pendency of this claim.

☐ Acknowledged

- C.** If you submit a claim under Track A and your claim is approved, you will receive a payment to reduce a portion of the tax liability you may incur from receipt of an award. This payment will be made directly to the Internal Revenue Service on your behalf. This may not pay all your tax liability. Notwithstanding this payment, you acknowledge that you are responsible for compliance with all applicable federal, state, and local tax requirements that arise as a result of any payment you receive on your claim. This includes payment of taxes for any cash payments, debt payments, or tax payments you may be awarded.

☐ Acknowledged

- D.** Your failure to complete this Claim Form and/or provide any necessary documentation will result in denial of your claim.

☐ Acknowledged

CLAIM FORM**In re Black Farmers Discrimination Litigation****Civil Action No. 1:08-mc-0511 (PLF)**

For help in completing this Form

call us toll-free at **1-877-810-8110**or email **questions@blackfarmerscase.com**

Sections 7, 8 & 9 Instructions: Complete Parts 7, 8, and 9 with information about the Claimant identified in Part 1.

7. ELECTION OF TRACK A OR TRACK B

YOU MUST SELECT EITHER TRACK A OR TRACK B. After reviewing the descriptions of Track A and Track B, check one box to select the Track you wish to pursue. Your selection is final and cannot be changed, except that persons selecting Track B may switch to Track A within thirty (30) days of being notified by the Claims Administrator of the number of Track B elections.

Because this decision has important consequences, you may wish to discuss your options with a lawyer.

☐**TRACK A**

Complete Sections 8 & 10; Skip Section 9.

☐**TRACK B**

Complete Sections 8, 9 & 10.

DESCRIPTION OF TRACK A: To be eligible for relief, you must establish the elements of Track A by substantial evidence (a lower burden of proof than required for Track B). If you satisfy the requirements for Track A (Section 8 below), you are eligible for a cash payment of up to \$50,000 for credit claims, regardless of the number of credit claims you have, and/or up to \$3,000 for non-credit claims, regardless of the number of non-credit claims you have; an additional payment in recognition of outstanding USDA Farm Service Agency (USDA/FSA) Farm Loan Program debt (a *Track A Loan Award*), which will be paid directly to the USDA on your behalf; and a tax payment worth 25% of the total of the cash payment and 25% of the total of the principal amount of the debt extinguished by the Track A Loan Award you receive (a *Track A Tax Award*), which will be paid directly to the IRS on your behalf. These amounts are subject to reduction, depending on the amount of funding available and the number of prevailing claims. No payments will be made until all claims have been evaluated.

DESCRIPTION OF TRACK B: To be eligible for relief, you must establish the elements of Track B by a preponderance of the evidence (a higher burden of proof than required for Track A), largely through independent documentary evidence admissible under the Federal Rules of Evidence. If you satisfy the requirements for Track B, you are eligible for a cash payment equal to the actual damages you suffered up to \$250,000. This amount is subject to reduction, depending on the amount of funding available and the number of prevailing claims. No payments will be made until all claims have been evaluated. Under Track B, you are not eligible for a loan award or tax award.

Section 8 Instructions: For claimants selecting TRACK A or TRACK B.

8. CLAIM INFORMATION FOR TRACK A & TRACK B

To be eligible for relief, you must complete each and every question in this section, including the narrative answers.

A. Are you an African-American who farmed, or attempted to farm, between January 1, 1981, and December 31, 1996?

☐

Yes

☐

No

If **Yes**, describe your farming operation or how you attempted to farm by answering the following questions:

i. How many acres did you farm or attempt to farm? _____

ii. Describe the type and amount of crops or livestock you farmed or attempted to farm.

Attach additional sheets if needed.

B. Did you own or lease, or attempt to own or lease, farm land?

☐

Yes

☐

No

i. If **Yes** to Question B, identify the location (i.e., full address, cross street intersection, and/or legal description) of the farm land you owned or leased or attempted to own or lease which is the subject of this claim.

ii. If **Yes** to Question B, and the acreage you owned or leased or attempted to own or lease is different from the acreage described in Question A, describe the farm land that you owned or leased or attempted to own or lease, including the type of land, acreage, and how it is different from the farm land described in Question A.

If the acreage is the same as the acreage described in Question A, write "Same."

Attach additional sheets if needed.

CLAIM FORM**In re Black Farmers Discrimination Litigation****Civil Action No. 1:08-mc-0511 (PLF)**

For help in completing this Form

call us toll-free at **1-877-810-8110**or email **questions@blackfarmerscase.com**Section 8 Instructions: For claimants selecting **TRACK A** or **TRACK B**.**8. CLAIM INFORMATION FOR TRACK A & TRACK B, CONTINUED**

To be eligible for relief, you must complete each and every question in this section, including the narrative answers.

- C.i.** Did you apply for a specific farm credit transaction(s) or a non-credit benefit(s) at a USDA office between January 1, 1981, and December 31, 1996? ☐ Yes ☐ No
- ii.** **FOR TRACK A CLAIMANTS ONLY:** if you answered **No** to question C.i, did you constructively apply, i.e., attempt to apply, for a specific farm credit transaction(s) or non-credit benefit(s) between January 1, 1981 and December 31, 1996? ☐ Yes ☐ No

If you answered **Yes** to either question C.i or C.ii above, identify the type of specific farm credit transaction(s) or non-credit benefit(s) for which you applied or constructively applied:

- ☐ Operating Loan ☐ Farm Ownership Loan ☐ Emergency Loan
- ☐ Other Credit Program ☐ Other Non-Credit Program

If you answered **Yes** to question C.ii above, provide any information that supports your claim that you attempted to apply. The type of information that would be helpful includes:

- The year you attempted to apply and the general time period within that year (e.g., late fall, March, etc.).
- The type and amount of loan(s) or non-credit benefit(s) for which you attempted to apply.
- How you planned to use the funds (i.e., identification of crops, equipment, acreage, etc.).
- How your plans for a farm operation were consistent with farming operations in that county/area in that year.

Attach additional sheets if needed.

If you answered **Yes** to question C.ii, did USDA actively discourage your application(s)? ☐ Yes ☐ No

Active discouragement includes statements by a USDA official that, at the time you wanted to apply, (a) there were no funds available and therefore no application would be provided; (b) there were no application forms available; or (c) USDA was not accepting or processing applications.

D. FOR CLAIMANTS WHO ANSWERED YES TO QUESTION C.i ABOVE:

Was the farm loan(s) or non-credit benefit(s) for which you applied denied, provided late, approved for a lesser amount than requested, did it include a restrictive condition(s), or did USDA fail to provide appropriate loan service(s)? ☐ Yes ☐ No

If **Yes**, explain the reasons for your answer, including the type, amount and purpose of the loan or non-credit benefit applied for, the year of the application, and USDA's response to your application.

Attach additional sheets if needed.

E. Did USDA's treatment of your loan or non-credit benefit application(s) lead to economic loss for you? ☐ Yes ☐ No

If **Yes**, explain the type and amount of economic loss you suffered.

Attach additional sheets if needed.

CLAIM FORM**In re Black Farmers Discrimination Litigation****Civil Action No. 1:08-mc-0511 (PLF)**

For help in completing this Form

call us toll-free at **1-877-810-8110**or email **questions@blackfarmerscase.com**Section 8 Instructions: For claimants selecting **TRACK A** or **TRACK B**.**8. CLAIM INFORMATION FOR TRACK A & TRACK B, CONTINUED**

To be eligible for relief, you must complete each and every question in this section, including the narrative answers.

Attach additional sheets if needed.

- F.** Did you complain of discrimination to an official of the United States Government on or before July 1, 1997, regarding USDA's treatment of you in response to your application(s)?

☐ Yes☐ No

If **Yes**, describe when and how you complained.

.....

.....

.....

- G. FOR TRACK A CLAIMANTS ONLY:** Do you have eligible outstanding USDA/FSA Farm Loan Program debt?

☐ Yes☐ No

Eligible outstanding USDA / FSA Farm Loan Program debt is debt from a loan that: (1) forms the basis of your claim; (2) was part of the same loan program as the loan that forms the basis of your claim, originated at the same time or subsequent to the loan that forms the basis of your claim but prior to January 1, 1997, and has not been the subject of an adverse administrative decision that has become final or an adverse federal or state court judgment that has become final; OR (3) has been consolidated with or restructured into a new loan.

- H. FOR TRACK A CLAIMANTS ONLY:** Are you seeking an additional payment to reduce eligible USDA/FSA Farm Loan Program debt?

☐ Yes☐ No

If **Yes**, provide as much of the following information as possible about each eligible outstanding USDA / FSA Farm Loan Program loan.

USDA / FSA Account Number	Loan Program	Loan Number	Year Loan Obtained	USDA or FSA County Office Where Loan Obtained	Outstanding Loan Balance

You must also complete an Authorization to Disclose Debt Information Form, which can be obtained from the Claims Administrator at 1-877-810-8110.

You may also include any other evidence you would like the Neutral to consider in support of your claim.

- I.** Provide any additional information that you believe is relevant to your claim; attach additional sheets, if needed.

.....

.....

.....

.....

Please do not send original documents. Submit photocopies, unless originals are expressly required.

Mark attachments with your name and Social Security Number (or TIN).

.....

.....

Section 9 Instructions: For claimants selecting TRACK B only. Do not complete this section if you selected TRACK A; continue to section 10.

CLAIM FORM**In re Black Farmers Discrimination Litigation****Civil Action No. 1:08-mc-0511 (PLF)**

For help in completing this Form

call us toll-free at **1-877-810-8110**or email **questions@blackfarmerscase.com**

Section 10 Instructions: This section is required for all claimants.

10. CLAIMANT DECLARATION & SUBSTITUTE W-9

Review the Declaration & Substitute W-9, then sign and date below in the space provided.

If your claim is meritorious but you fail to complete the Substitute W-9, your award may be subject to backup withholding.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that (please check all applicable boxes):

- ☐ The answers made in this Claim Form are true and correct and all enclosures are true and correct copies.
- ☐ The number provided in Section I: Claimant Information is the correct Social Security Number or Taxpayer Identification Number for this claimant.
- ☐ The claimant is NOT subject to backup withholding because: (a) the claimant is exempt from backup withholding, or (b) the claimant has not been notified by the Internal Revenue Service (IRS) that the claimant is subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified the claimant that he or she is no longer subject to backup withholding.
- ☐ The claimant is a U.S. citizen or other U.S. person.

The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding.

Signature of Claimant or Submitter

Date Signed

Declaration of submitting attorney, if applicable.

I swear, under penalty of perjury, that to the best of my knowledge, information, and belief formed after an inquiry reasonable under the circumstances, this claim is supported by existing law and the factual contentions have evidentiary support.

Signature of Attorney

Date Signed

Reminder Checklist

For **Track A**, complete **Sections 1 – 8 and 10**. For **Track B**, complete **Sections 1 – 10**.

Depending on your answers, **include these documents**:

- ☐ Section 4: Proof of Legal Representation (for deceased claimants or those unable to submit a claim due to mental or physical limitation);
- ☐ Section 4: Copy of Death Certificate for Deceased Claimant;
- ☐ Section 8, Question H: Completed Authorization to Disclose Debt Information Form; and/or
- ☐ Section 9, Track B Only: Independent, documentary evidence and, where permitted, sworn statements.

Submit this form by [Claim Deadline] to:

Claims Administrator
PO Box 4028
Portland, OR 97208-4028

You may enclose additional sheets with any information or evidence you believe is relevant and would like the Neutral to consider in support of your claim.

For Office Use Only

Claim Identification Number

EXHIBIT D

SETTLEMENT AGREEMENT

**in *In re Black Farmers Discrimination Litigation*,
Civil Action No. 1:08-mc-0511 (PLF)**

AUTHORIZATION TO DISCLOSE DEBT INFORMATION FORM

PART I. REQUEST TO UNITED STATES DEPARTMENT OF AGRICULTURE, FARM SERVICE AGENCY (USDA/FSA)				
Claimant's Last Name:	Claimant's First Name:	Claimant's Middle Name:	Claimant's Suffix:	
Claimant's Full Address (including zip code):		Claimant's Social Security/Taxpayer I.D. Number:		
Address or Other Description of Farm Property that is the Subject of the Claim		Claimant's USDA/FSA Account Number(s):		
I hereby request and authorize USDA/FSA to provide the information about my outstanding USDA/FSA Farm Loan Program loans to the Claims Administrator in <i>In re Black Farmers Discrimination Litigation</i>. I acknowledge and understand that USDA/FSA will not reduce, discharge, or forgive my debt and that interest on my debt will continue to accrue unless and until I have paid the debt in full. Claimant's Signature: _____ Date: _____				
PART II. USDA/FSA RESPONSE TO CLAIMS ADMINISTRATOR				
This Response is as of:				
LOAN #	PRINCIPAL BALANCE	INTEREST BALANCE	TOTAL	DAILY INTEREST ACCRUAL
USDA/FSA Authorizing Official Signature: _____			Date Prepared: _____	Page ____ of ____

EXHIBIT E

SETTLEMENT AGREEMENT
in *In re Black Farmers Discrimination Litigation*,
Civil Action No. 1:08-mc-0511 (PLF)

QUARTERLY DISBURSEMENT REPORTING FORM

For Q__ of 20__
Page __ of __

<u>Amount Paid</u>	<u>Date Paid</u>	<u>Payee Name & Address</u>	<u>Purpose of Payment</u>	<u>Track A/Track B (if applicable)</u>

(Attach additional pages as necessary)

Total number of payments made during current reporting quarter: _____

Total amount of payments made during current reporting quarter: \$ _____

Total number of payments made to date:
(inclusive of current and all prior reporting quarters) _____

Total amount of payments made to date:
(inclusive of current and all prior reporting quarters) \$ _____

Total number of Track A Awards made during current reporting quarter: _____

Total amount of Track A Awards made during current reporting quarter: \$ _____

Total number of Track A Awards made to date:
(inclusive of current and all prior reporting quarters) _____

Total amount of Track A Awards made to date:
(inclusive of current and all prior reporting quarters) \$ _____

Total number of Track B Awards during current reporting quarter: _____

Total amount of Track B Awards made during current reporting quarter: \$ _____

Total number of Track B Awards made to date:
(inclusive of current and all prior reporting quarters) _____

Total amount of Track B Awards made to date:
(inclusive of current and all prior reporting quarters) \$ _____

I, _____, certify that the above content is true, complete, and accurate.

Signature of Class Counsel

Date

EXHIBIT F

SETTLEMENT AGREEMENT
in *In re Black Farmers Discrimination Litigation*,
Civil Action No. 1:08-mc-0511 (PLF)

YOUR CLAIM PACKAGE IS NOT COMPLETE
YOU MUST RESPOND WITHIN 30 DAYS
OF THE POSTMARK ON THIS MAILING

**PART I. CLAIMANT INFORMATION (TO BE COMPLETED BY THE
CLAIMS ADMINISTRATOR)**

Claimant's Name (First, Middle, Last)

_____-_____-_____
Claimant's Social Security/Taxpayer
I.D. Number

Claimant's Mailing Address/City/State/Zip

Claimant Identification Number

Claimant's Phone Number

Claimant's Alternate Phone Number

_____/_____/_____
Claimant's Date of Birth

Attorney's Name (First, Middle, Last), if applicable

Attorney's Mailing Address/City/State/Zip

Attorney's Phone Number

Submitter's Name (First, Middle, Last), if applicable

_____-_____-_____
Submitter's Social Security/Taxpayer
I.D. Number

Submitter's Mailing Address/City/State/Zip

Submitter's Phone Number

**YOU ARE RECEIVING THIS NOTICE BECAUSE THE
CLAIM PACKAGE YOU SUBMITTED
IS NOT COMPLETE
AND WE NEED ADDITIONAL INFORMATION
(SEE PARTS II, III, IV, and V)**

Claimant's Name (First, Middle, Last)

Claimant ID #

Claimant's Social Security/Taxpayer I.D. #

PART II. ELEMENTS OF A COMPLETE CLAIM PACKAGE

To be eligible for relief, a Claimant must submit:

- 1) A completed Claim Form.
- 2) For a Claimant who selects Track A and seeks a payment in recognition of outstanding USDA/FSA Farm Loan Program debt, a completed Authorization to Disclose Debt Information Form.
- 3) For a Claimant with an attorney, a declaration by the Claimant's attorney attesting to the attorney's good faith belief in the truth of the factual basis for the claim.
- 4) For a Claimant who is deceased, (a) a death certificate and (b) either (i) proof of legal representation, or (ii) a sworn statement describing why the submitting individual believes he or she will be appointed the legal representative of the Claimant's estate.
- 5) For a Claimant unable to submit a claim on his or her own behalf due to a physical or mental limitation, (a) proof of legal representation or (b) a sworn statement describing why the Claimant is unable to submit a claim on his or her own behalf and why the submitting individual asserts a right to do so on the Claimant's behalf.

PART III. DEADLINE FOR SUBMISSION OF A COMPLETE CLAIM PACKAGE

To be eligible for relief, a Claimant must submit a Complete Claim Package by [**Claims Deadline**]. The submission date is the date of postmark if the Claim Package is sent via first-class mail, the date of deposit if sent by courier or overnight delivery, and the date of transmission if sent electronically.

PART IV. PROBLEM(S) WITH YOUR CLAIM PACKAGE (TO BE COMPLETED BY THE CLAIMS ADMINISTRATOR)

We have identified the following problem(s) with your claim package (check all that apply):

- ☐ You did not submit a Claim Form.
- ☐ You did not sign your Claim Form.
- ☐ You did not answer the following questions on the Claim Form:

- ☐ You are a Track A Claimant seeking a payment in recognition of outstanding USDA/FSA Farm Loan Program debt, and you did not submit a completed Authorization to Disclose Debt Information Form.

Claimant's Name (First, Middle, Last)

Claimant ID #

Claimant's Social Security/Taxpayer I.D. #

- ☐ You have an attorney but your submission did not include a declaration by your attorney attesting to the attorney's good faith belief in the truth of the factual basis for your claim.
- ☐ You are submitting a claim on behalf of a Claimant who is deceased, and you did not submit a death certificate.
- ☐ You are submitting a claim on behalf of a Claimant who is deceased, and you did not submit proof of legal representation or a sworn statement describing why you believe you will be appointed the legal representative of the Claimant's estate.
- ☐ You are submitting a claim on behalf of a Claimant who is unable to submit a claim on his or her own behalf due to a physical or mental limitation, and you did not submit (a) proof of legal representation or (b) a sworn statement describing why the Claimant is unable to submit a claim on his or her own behalf and why you assert a right to do so on the Claimant's behalf.
- ☐ Based on the information included in your Claim Package, we were unable to determine whether your claim was submitted before the Claims Deadline. Please submit additional evidence that shows:

- ☐ Based on the information included in your Claim Package, we were unable to determine whether your Claim Package is complete. Please submit additional evidence that shows:

PART V. DEADLINE TO RE-SUBMIT YOUR CLAIM PACKAGE

From the date on the postmark of this Form, you have 30 days to re-submit your claim package. Your resubmission must be postmarked no later than 30 days after the postmark on this Form. Your failure to submit a Complete Claims Package within 30 days will result in denial of your claim. You are encouraged to consult an attorney to assist you in re-submitting your claim.

QUESTIONS

If you have any questions, you may contact Class Counsel at [Phone].

EXHIBIT G

SETTLEMENT AGREEMENT

in *In re Black Farmers Discrimination Litigation*,

Civil Action No. 1:08-mc-0511 (PLF)

**YOU HAVE NOT SUBMITTED YOUR
CLAIM ON TIME**

**PART I. CLAIMANT INFORMATION (TO BE COMPLETED BY THE CLAIMS
ADMINISTRATOR)**

Claimant's Name (First, Middle, Last)

_____-_____-_____
Claimant's Social Security/Taxpayer
I.D. Number

Claimant's Mailing Address/City/State/Zip

Claimant Identification Number

Claimant's Phone Number

Claimant's Alternate Phone Number

_____/_____/_____
Claimant's Date of Birth

Attorney's Name (First, Middle, Last), if applicable

Attorney's Mailing Address/City/State/Zip

Attorney's Phone Number

Submitter's Name (First, Middle, Last), if applicable

_____-_____-_____
Submitter's Social Security/Taxpayer
I.D. Number

Submitter's Mailing Address/City/State/Zip

Submitter's Phone Number

**YOUR CLAIM IS DENIED.
(SEE PART II)**

**THIS DECISION IS FINAL. IT IS NOT REVIEWABLE BY THE
CLAIMS ADMINISTRATOR, THE TRACK A NEUTRAL, THE
TRACK B NEUTRAL, THE COURT, OR ANY OTHER PARTY OR
BODY, JUDICIAL OR OTHERWISE.**

Claimant's Name (First, Middle, Last)

Claimant ID #

Claimant's Social Security/Taxpayer I.D. #

PART II. EXPLANATION OF DENIED CLAIMS (TO BE COMPLETED BY THE CLAIMS ADMINISTRATOR)

Your claim is DENIED because you failed to submit your claim on time. Your claim was submitted on _____. All claims had to be submitted by **[Claims Deadline]** to be eligible for relief. The date of submission is the date of postmark if the Claim Package is sent via first-class mail, the date of deposit if sent by courier or overnight delivery, and the date of transmission if sent electronically.

IMPACT ON OUTSTANDING LOAN OBLIGATIONS: Please note that if you are not current on loan payments you owe the USDA, the Secretary of Agriculture may, in view of the denial of your claim, proceed immediately with any loan acceleration or foreclosure proceedings he believes are appropriate.

QUESTIONS

If you have any questions, you may contact Class Counsel at **[Phone]**

EXHIBIT H

SETTLEMENT AGREEMENT

**in *In re Black Farmers Discrimination Litigation*,
Civil Action No. 1:08-mc-0511 (PLF)**

YOU ARE NOT A CLASS MEMBER

PART I. CLAIMANT INFORMATION (TO BE COMPLETED BY THE CLAIMS ADMINISTRATOR)

Claimant's Name (First, Middle, Last)

_____-_____-_____
Claimant's Social Security/Taxpayer
I.D. Number

Claimant's Mailing Address/City/State/Zip

Claimant Identification Number

Claimant's Phone Number

Claimant's Alternate Phone Number

_____/_____/_____
Claimant's Date of Birth

Attorney's Name (First, Middle, Last), if applicable

Attorney's Mailing Address/City/State/Zip

Attorney's Phone Number

Submitter's Name (First, Middle, Last), if applicable

_____-_____-_____
Submitter's Social Security/Taxpayer
I.D. Number

Submitter's Mailing Address/City/State/Zip

Submitter's Phone Number

**YOUR CLAIM IS DENIED.
(SEE PART II)**

**THIS DECISION IS FINAL. IT IS NOT REVIEWABLE BY THE
CLAIMS ADMINISTRATOR, THE TRACK A NEUTRAL, THE
TRACK B NEUTRAL, THE COURT, OR ANY OTHER PARTY OR
BODY, JUDICIAL OR OTHERWISE.**

Claimant's Name (First, Middle, Last)

Claimant ID #

Claimant's Social Security/Taxpayer I.D. #

PART II. EXPLANATION OF DENIED CLAIMS (TO BE COMPLETED BY THE CLAIMS ADMINISTRATOR)

Your claim is DENIED because (check all that apply):

- ☐ You failed to prove that you submitted a Late-Filing Request pursuant to Section 5(g) of the *Pigford* Consent Decree before June 19, 2008.
- ☐ You failed to prove that you have not already obtained a determination on the merits of your discrimination complaint.

IMPACT ON OUTSTANDING LOAN OBLIGATIONS: Please note that if you are not current on loan payments you owe the USDA, the Secretary of Agriculture may, in view of the denial of your claim, proceed immediately with any loan acceleration or foreclosure proceedings he believes are appropriate.

QUESTIONS

If you have any questions, you may contact Class Counsel at **[Phone]**.

EXHIBIT I

SETTLEMENT AGREEMENT
in *In re Black Farmers Discrimination Litigation*,
Civil Action No. 1:08-mc-0511 (PLF)

QUARTERLY CLAIM DETERMINATION REPORTING FORM

Claimant's Name (Last, First, Middle, Suffix)	Claimant's Mailing Address (Street, City, State, Zip)	Claimant's Social Security/Taxpayer I.D. Number	Claimant's USDA/FSA Account Number(s), if applicable	Did Claimant Prevail? (Yes/No)
Signature of Claims Administrator: _____			Date Prepared:	Page __ of __

EXHIBIT J



Claims Administrator, *In re Black Farmers Discrimination Litigation*

[Date]

[Claimant's Name]

[Claimant's ID Number]

[Claimant's Address]

RE: *In re Black Farmers Discrimination Litigation*: Claim Status

Dear [Mr./Mrs.] [Claimant's Last Name]:

Some time ago, you submitted a Track [A/B] claim to participate in the Non-Judicial Claims Process under the Settlement Agreement in *In re Black Farmers Discrimination Litigation*, Civ. No. 1:08-mc-0511 (D.D.C.). A neutral party has reviewed your claim materials and determined that your claim is **APPROVED**.

You are eligible to receive a payment for your successful claim. However, at this time we do not know the amount of the payment you will receive, and we will not know that information until all claims in this case have been determined and final award amounts for all claims have been calculated. No payments will be made under the Settlement Agreement until all claims have been decided.

Please be patient. We will be back in touch with you when the claims process has ended and we are ready to issue payments.

If you have any questions, please feel free to contact us at 1-877-810-8110.

Sincerely,

Claims Administrator

EXHIBIT 3

to the

**Memorandum of Points and Authorities in Support of
Plaintiffs' Motion for Preliminary Approval of Settlement,
Certification of a Rule 23(b)(1)(B) Class,
And for Other Purposes**

In re Black Farmers Discrimination Litigation
Case No. 08-mc-0511-PLF (D.D.C.)

Pigford **Consent
Decree**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

TIMOTHY C. PIGFORD, et al.,

Plaintiffs,

v.

DAN GLICKMAN, SECRETARY,
THE UNITED STATES DEPARTMENT
OF AGRICULTURE,

Defendant.

Civil Action No.
97-1978 (PLF)

CECIL BREWINGTON, et al.,

Plaintiffs,

v.

DANIEL R. GLICKMAN,

Defendant.

Civil Action No.
98-1693 (PLF)

CONSENT DECREE

WHEREAS the parties desire to resolve amicably all the claims raised in these suits, including the plaintiffs' claims under the Equal Credit Opportunity Act ("ECOA"), 15 U.S.C. § 1691, et seq., and the Administrative Procedure Act ("APA"), 5 U.S.C. § 551, et seq.; and

WHEREAS the parties have agreed upon mutually satisfactory terms for the complete resolution of all the claims that have, or could have, been asserted by the plaintiffs in this litigation; and

WHEREAS, in light of the remedial purposes of this Consent Decree, the parties intend that it be liberally construed to effectuate those purposes in a manner that is consistent with law; and

WHEREAS the parties have entered into this Consent Decree for the purpose of ensuring that in their dealings with USDA, all class members receive full and fair treatment that is the same as the treatment accorded to similarly situated white persons;

NOW THEREFORE, the plaintiffs and the defendant, Dan Glickman, Secretary of the United States Department of Agriculture ("USDA"), hereby consent to the entry of this decree with the following terms:

1. Definitions

The following terms shall have the following meanings for purposes of this Consent Decree.

(a) The term "adjudicator" shall mean (i) the person or persons who is/are assigned by the facilitator to undertake the initial review of, and where appropriate make recommended decision on Track A claims under ¶ 9, below; and (ii) JAMS-Endispute, Inc., which shall make the final decision in all Track A claims and resolve issues of tolling under ¶ 6, below.

(b) The term "arbitrator" shall mean Michael K. Lewis of ADR Associates, and the other person or persons selected by Mr. Lewis who meet qualifications agreed upon by the parties and by

Mr. Lewis and whom Mr. Lewis assigns to decide Track B claims under ¶ 10, below.

(c) The term "claimant" shall mean any person who submits a claim package for relief under the terms of this Consent Decree.

(d) The term "claim package" shall mean the materials sent to claimants who request them in connection with submitting a claim for relief under the provisions of this Consent Decree. The claim package will include (i) a claim sheet and election form and a Track A Adjudication claim affidavit, copies of which are attached hereto as Exhibit A; and (ii) associated documentation and instructions.

(e) The term "class counsel" shall mean Alexander J. Pires, Jr. and Phillip L. Fraas, Lead Counsel for members of the class defined in ¶ 2(a), infra. In addition, the following counsel and law firms have been acting, and will continue to act, as Of Counsel in this case: J.L. Chestnut, of Chestnut, Sanders, Sanders & Pettaway, P.C., Selma, AL.; T. Roe Frazer of Langston, Frazer, Sweet & Freese, P.A., Jackson, MS.; Hubbard Saunders, IV, of The Terney Firm, Jackson, MS.; Othello Cross, of Cross, Kearney & McKissic, Pine Bluff, AR.; Gerard Lear of Speiser Krause, Arlington, VA.; and William J. Smith, Fresno, CA.

(f) The term "credit" shall mean the right granted by a creditor to a debtor to defer payment of debt or to incur debt and

defer its payment or to purchase property or services and defer payment therefor.

(g) The term "defendant's counsel" shall mean the United States Department of Justice.

(h) The term "discrimination complaint" shall mean a communication from a class member directly to USDA, or to a member of Congress, the White House, or a state, local or federal official who forwarded the class member's communication to USDA, asserting that USDA had discriminated against the class member on the basis of race in connection with a federal farm credit transaction or benefit application.

(i) The term "facilitator" shall mean the Poorman-Douglas Corporation, which shall receive claims pursuant to this Consent Decree and assign claims to adjudicators and arbitrators for final resolution. The parties may, by agreement and without the Court's approval, assign to the facilitator such additional tasks related to the implementation of this Consent Decree as they deem appropriate.

(j) The term "preponderance of the evidence" shall mean such relevant evidence as is necessary to prove that something is more likely true than not true.

(k) The term "priority consideration" means that an application will be given first priority in processing, and with respect to the availability of funds for the type of loan at issue among all similar applications filed at the same time; provided,

however, that all applications to be given priority consideration will be of equal status.

(l) The term "substantial evidence" shall mean such relevant evidence as appears in the record before the adjudicator that a reasonable person might accept as adequate to support a conclusion after taking into account other evidence in the record that fairly detracts from that conclusion. Substantial evidence is a lower standard of proof than preponderance of the evidence.

(m) The term "USDA" shall include the United States Department of Agriculture and all of its agencies, instrumentalities, agents, officers, and employees, including, but not limited to the state and county committees which administer USDA credit programs, and their staffs.

(n) The term "USDA listening session" shall mean one of the meetings of farmers and USDA's representatives conducted by USDA's Civil Rights Action Team between January 6, 1997 and January 24, 1997.

2. Class Definition

(a) Pursuant to Fed. R. Civ. P. 23(b)(3) the Court hereby certifies a class defined as follows:

All African American farmers who (1) farmed, or attempted to farm, between January 1, 1981 and December 31, 1996; (2) applied to the United States Department of Agriculture (USDA) during that time period for participation in a federal farm credit or benefit program and who believed that they were discriminated against on the basis of race in USDA's response to that application; and (3) filed a discrimination complaint on

or before July 1, 1997, regarding USDA's treatment of such farm credit or benefit application.

(b) Any putative class member who does not wish to have his claims adjudicated through the procedure established by this Consent Decree may, pursuant to Federal Rule of Civil Procedure 23(c)(2), request to be excluded from the class. To be effective, the request must be in writing and filed with the facilitator within 120 days of the date on which this Consent Decree is entered.

3. Duties of Facilitator

(a) Poorman-Douglas Corporation shall serve as the facilitator and shall perform the following functions:

(i) publish the Notice of Class Settlement in the manner prescribed in ¶ 4, below;

(ii) mail claim packages to claimants who request them;

(iii) process completed claim packages as they are received;

(iv) determine, pursuant to the terms of this Consent Decree, which claimants satisfy the class definition as contained in ¶ 2(a);

(v) transmit to adjudicators claim packages submitted by claimants who contend that they are entitled to participate in the claims process due to equitable tolling of ECOA's statute of limitations under the particular circumstances of their claim;

(vi) transmit to the adjudicator the claims packages of class members with ECOA claims who elect to proceed under Track A;

(vii) transmit to the arbitrator the claims packages of class members with ECOA claims who elect to proceed under Track B;

(viii) transmit to the adjudicator the claims packages of class members who assert only non-credit benefit claims; and

(ix) maintain and operate a toll-free telephone number to provide information to interested persons about the procedure for filing claims under this Consent Decree.

(b) The facilitator's fees and expenses shall be paid by USDA.

4. Class Notice Procedure

(a) Within 10 days after the entry of the Order granting preliminary approval of this Consent Decree the facilitator shall mail a copy of the Notice of Class Certification and Proposed Class Settlement (a copy of which is attached hereto as Exhibit B) to all then-known members of the class.

(b) As soon as possible after entry of the Order granting preliminary approval of this Consent Decree the facilitator shall take the following steps:

(i) arrange to have 44 commercials announcing the preliminary approval of the Consent Decree and the time and place of the fairness hearing aired on the Black Entertainment Network, and 18 similar commercials on Cable News Network, during a two-week period;

(ii) arrange to have one-quarter page advertisements announcing the preliminary approval of the Consent Decree and the

time and place of the fairness hearing placed in 27 general circulation newspapers, and 115 African-American newspapers, in an 18-state region during a two-week period; and

(iii) arrange to have a full page advertisement announcing the preliminary approval of the Consent Decree and the time and place of the fairness hearing placed in the editions of TV Guide that are distributed in an 18-state region, and a half page advertisement in the national edition of Jet Magazine.

(c) USDA shall use its best efforts to obtain the assistance of community based organizations, including those organizations that focus on African-American and/or agricultural issues, in communicating to class members and potential class members the fact that the Court has preliminarily approved this Consent Decree and the time and place of the fairness hearing.

5. Class Membership Screening; Election by Claimant; Processing.

(a) The facilitator shall send claim packages to claimants who request them.

(b) To be eligible to obtain relief pursuant to this Consent Decree, a claimant must complete the claim sheet and return it and any supporting documentation to the facilitator. The claimant must also provide to the facilitator evidence, in the form described below, that he filed a discrimination complaint between January 1, 1981 and July 1, 1997:

(i) a copy of the discrimination complaint the claimant filed with USDA, or a copy of a USDA document referencing the discrimination complaint; or

(ii) a declaration executed pursuant to 28 U.S.C. § 1746 by a person who is not a member of the claimant's family and which (1) states that the declarant has first-hand knowledge that the claimant filed a discrimination complaint with USDA; and (2) describes the manner in which the discrimination complaint was filed; or

(iii) a copy of correspondence from the claimant to a member of Congress, the White House, or a state, local, or federal official averring that the claimant has been discriminated against, except that, in the event that USDA does not possess a copy of the correspondence, the claimant also shall be required to submit a declaration executed pursuant to 28 U.S.C. § 1746 by the claimant stating that he sent the correspondence to the person to whom it was addressed; or

(iv) a declaration executed pursuant to 28 U.S.C. § 1746 by a non-familial witness stating that the witness has first-hand knowledge that, while attending a USDA listening session, or other meeting with a USDA official or officials, the claimant was explicitly told by a USDA official that the official would investigate that specific claimant's oral complaint of discrimination.

(c) In order to be eligible for relief under ¶¶ 9 or 10, below, a claimant must submit his completed claim package to the facilitator postmarked within 180 days of the date of entry of this Consent Decree, except that a claimant whose claim is otherwise timely shall have not less than 30 days to submit a declaration pursuant to subparagraph (b)(iii), above, after being directed to do so without regard to the 180-day period.

(d) At the time a claimant who asserts an ECOA claim submits his completed claim package, he must elect whether to proceed under Track A, see ¶ 9, below, or Track B see ¶ 10, below, except that claimants whose claims arise exclusively under non-credit benefit programs shall be required to proceed under Track A. A class member's election under this subparagraph shall be irrevocable and exclusive.

(e) Each completed claim package must be accompanied by a certification executed by an attorney stating that the attorney has a good faith belief in the truth of the factual basis of the claim, and that the attorney has not and will not require the claimant to compensate the attorney for assisting him.

(f) Within 20 days of receiving a completed claim package the facilitator shall determine, pursuant to subparagraph (b), above, whether the claimant is a member of the class as defined by ¶ 2(a). If a claimant is determined to be a class member, the facilitator shall assign the class member a consent decree case number, refer the claim package to an adjudicator or an

arbitrator, as appropriate, and send a copy of the entire claim package to the class counsel and defendant's counsel along with a notice that includes the class member's name, address, telephone number, social security number, consent decree case number, and that identifies the track under which the class member is proceeding. If a claimant is found not to be a class member, the facilitator shall notify the claimant and the parties' counsel of that finding.

(g) A claimant who satisfies the definition of the class in ¶ 2(a), above, but who fails to submit a completed claim package within 180 days of entry of this Consent Decree may petition the Court to permit him to nonetheless participate in the claims resolution procedures provided in ¶¶ 9 & 10, below. The Court shall grant such a petition only where the claimant demonstrates that his failure to submit a timely claim was due to extraordinary circumstances beyond his control.

6. Tolling of ECOA's Statute of Limitations.

(a) In addition to the class defined herein, a person who otherwise satisfies the criteria for membership in the class defined in ¶ 2(a), above, but who did not file a discrimination complaint until after July 1, 1997, shall be entitled to relief under this Consent Decree by demonstrating, consistent with Irwin v. United States, 498 U.S. 89 (1990), that:

(i) he has actively pursued his judicial remedies by filing a defective pleading during the applicable statute of limitations period;

(ii) he was induced or tricked by USDA's misconduct into allowing the filing deadline for the applicable statute of limitations period to pass; or

(iii) he was prevented by other extraordinary circumstances beyond his control from filing a complaint in a timely manner, provided that excusable neglect shall not qualify as extraordinary circumstances.

(b) Within 10 days of a receiving a completed claim package from a person who did not file a discrimination claim until after July 1, 1997, the facilitator shall forward the claim to an adjudicator. The adjudicator shall then determine whether the claim is timely pursuant to subparagraphs (a)(i), (ii), or (iii), above. If the claim is found to be qualified under subparagraph (a), above, the adjudicator shall return the claim package to the facilitator, along with a written determination to that effect. The facilitator shall then process the claim pursuant to ¶ 5(f), above, and the claimant shall be eligible for the relief provided herein for class members. If the claim is found by the adjudicator to be untimely, the adjudicator shall return the claim package to the facilitator with a written determination to that effect. The facilitator shall promptly notify the claimant of the adjudicator's decision.

7. Interim Administrative Relief

Upon being advised by the facilitator that a claimant satisfies the class definition in ¶ 2(a), above, or that a claimant has met the criteria for equitable tolling under ¶ 6, above, USDA shall immediately cease all efforts to dispose of any foreclosed real property formerly owned by such person. USDA also will refrain from foreclosing on real property owned by the claimant or accelerating the claimant's loan account; however, USDA may take such action up to but not including foreclosure or acceleration that is necessary to protect its interests. USDA may resume its efforts to dispose of any such real property after a final decision in USDA's favor on the class member's claim pursuant to ¶¶ 9 or 10, below.

8. Response by USDA to a Track A Referral Notice

In any Track A case USDA may, within 60 days after receipt of the materials and notice the facilitator is required, pursuant to ¶ 5(f), above, to furnish to USDA with respect to persons who are determined to be class members, provide to the adjudicator assigned to the claim, and to class counsel, any information or materials that are relevant to the issues of liability and/or damages.

9. Track A - Decision by Adjudicator

(a) In cases in which a class member asserts an ECOA violation and has elected to proceed under Track A:

(i) the adjudicator shall, within 30 days of receiving the material required to be submitted by the class member under ¶ 5, along with any material submitted by defendant pursuant to ¶ 8, above, determine on the basis of those materials whether the class member has demonstrated by substantial evidence that he was the victim of race discrimination. To satisfy this requirement, the class member must show that:

(A) he owned or leased, or attempted to own or lease, farm land;

(B) he applied for a specific credit transaction at a USDA county office during the period identified in ¶ 2(a), above;

(C) the loan was denied, provided late, approved for a lesser amount than requested, encumbered by restrictive conditions, or USDA failed to provide appropriate loan service, and such treatment was less favorable than that accorded specifically identified, similarly situated white farmers; and

(D) USDA's treatment of the loan application led to economic damage to the class member.

(ii) The adjudicator's decision shall be in a format to be agreed upon by the class counsel and defendant's counsel, and shall include a statement of the reasons upon which the decision is based.

(iii) In any case in which the adjudicator decides in a class member's favor, the following relief shall be provided to the class member:

(A) USDA shall discharge all of the class member's outstanding debt to USDA that was incurred under, or affected by, the program(s) that was/were the subject of the ECOA claim(s) resolved in the class member's favor by the adjudicator. The discharge of such outstanding debt shall not adversely affect the claimant's eligibility for future participation in any USDA loan or loan servicing program;

(B) The class member shall receive a cash payment of \$50,000 that shall be paid from the fund described in 31 U.S.C. § 1304 ("the Judgment Fund");

(C) an additional payment equal to 25% of the sum of the payment made under subparagraph (B), above, and the principal amount of the debt forgiven under subparagraph (A), above, shall be made by electronic means directly from the Judgment Fund to the Internal Revenue Service as partial payment of the taxes owed by the class member on the amounts paid or forgiven pursuant to those provisions;

(D) The injunctive relief made available pursuant to ¶ 11, below; and

(E) The immediate termination of any foreclosure proceedings that USDA has initiated against any of the class member's real property in connection with the ECOA claim(s) resolved in the class member's favor by the adjudicator; and the return of any USDA inventory property that formerly was owned by the class

member but which was foreclosed in connection with the ECOA claim(s) resolved in the class member's favor by the adjudicator.

(iv) If the adjudicator determines that a class member's claim is not supported by substantial evidence, the class member shall receive no relief under this Consent Decree.

(v) The decision of the adjudicator shall be final, except as provided by ¶ 12(b)(iii), below. The parties hereby agree to forever waive their right to seek review in any court or before any tribunal of the decision of the adjudicator with respect to any claim that is, or could have been decided by the adjudicator.

(b) In cases in which a class member asserts only non-credit claims under a USDA benefit program:

(i) the adjudicator shall, within 30 days of receiving the material required to be submitted by the class member under ¶ 5, along with any material submitted by defendant pursuant to ¶ 8, above, determine on the basis of those materials whether the class member has demonstrated by substantial evidence that he was the victim of race discrimination. To satisfy this requirement, the class member must show that:

(A) he applied for a specific non-credit benefit program at a USDA county office during the period identified in ¶ 2(a), above; and

(B) his application was denied or approved for a lesser amount than requested, and that such treatment was different than the treatment received by specifically identified, similarly

situated white farmers who applied for the same non-credit benefit.

(ii) The adjudicator's decision shall be in a format to be agreed upon by the parties, and shall include a statement of the reasons upon which the decision is based.

(iii) In any case in which the adjudicator decides in a class member's favor, the following relief shall be provided to the class members:

(A) USDA shall pay to the class member the amount of the benefit wrongly denied, but only to the extent that funds that may lawfully be used for that purpose are then available; and

(B) The injunctive relief made available pursuant to ¶11(c)-(d), below.

(iv) If the adjudicator determines that a class member's claim is not supported by substantial evidence, the class member shall receive no relief under this Consent Decree.

(v) The decision of the adjudicator shall be final, except as provided by ¶ 12(b)(iii), below. The parties hereby agree to forever waive their right to seek review in any court or before any tribunal of the decision of the adjudicator with respect to any claim that is, or could have been decided by the adjudicator.

(c) The adjudicator's fees and expenses shall be paid by USDA.

10. Track B - Arbitration

(a) Within 10 days of receiving the completed claim package of a class member who has elected to proceed under Track B, the arbitrator shall notify the class member and defendant of the date on which an evidentiary hearing on the class member's claim will be held. The hearing shall be scheduled for a date that is not less than 120 days, nor more than 150 days, from the date on which the hearing notice is sent.

(b) At least 90 days prior to the hearing described in subparagraph (a), above, USDA and the class member shall file with the arbitrator and serve on each other a list of the witnesses they intend to call at the hearing along with a statement describing in detail the testimony that each witness is expected to provide, and a copy of all exhibits that each side intends to introduce at such hearing. The parties shall be required to produce for a deposition, and for cross examination at the arbitration hearing, any person they identify as a witness pursuant to subparagraph (a), above.

(c) Each side shall be entitled to depose any person listed as a witness by his opponent pursuant to subparagraph (b), above.

(d) Discovery shall be completed not later than 45 days before the date of the hearing described in subparagraph (a), above.

(e) Not less than 21 days prior to commencement of the hearing described in subparagraph (a), above, each side shall (i)

notify the other of the names of those witnesses whom they intend to cross-examine at the hearing; and (ii) file with the arbitrator memoranda addressing the legal and factual issues presented by the class member's claim.

(f) The hearing shall be conducted in accordance with the Federal Rules of Evidence. All direct testimony shall be introduced in writing and shall be filed with the arbitrator and served on the opposing side at least 30 days in advance of the hearing. The hearing shall be limited in duration to eight hours, with each side to have up to four hours within which to cross examine his opponent's witnesses, and to present his legal arguments.

(g) The arbitrator shall issue a written decision 30-60 days after the date of the hearing. If the arbitrator determines that the class member has demonstrated by a preponderance of the evidence that he was the victim of racial discrimination and that he suffered damages therefrom, the class member shall be provided the following relief:

(i) actual damages as provided by ECOA, 15 U.S.C. § 1691e(a) to be paid from the Judgment Fund;

(ii) USDA shall discharge all of the class member's outstanding debt to the Farm Service Agency that was incurred under, or affected by, the program(s) that were the subject of the claim(s) resolved in the class member's favor by the arbitrator. The discharge of such outstanding debt shall not adversely affect

the claimant's eligibility for future participation in any USDA loan or loan servicing program;

(iii) The injunctive relief made available pursuant to ¶ 11, below; and

(iv) The immediate termination of any foreclosure proceedings that have been initiated against any of the class member's real property in connection with the ECOA claim(s) resolved in the class member's favor by the arbitrator, and the return of any USDA inventory property that was formerly owned by the class member but which was foreclosed in connection with the ECOA claim(s) resolved in the class member's favor by the arbitrator.

(h) If the arbitrator rules in the defendant's favor, the class member shall receive no relief under this Consent Decree.

(i) The decision of the arbitrator shall be final, except as provided by ¶ 12(b)(iii), below. The parties hereby agree to forever waive their right to seek review in any court or before any tribunal of the decision of the arbitrator with respect to any claim that is, or could have been decided, by the arbitrator.

(k). The arbitrator's fees and expenses shall be paid by USDA.

11. Class-Wide Injunctive Relief

(a) USDA will provide each class member who prevails under ¶¶ 9(a) or 10 with priority consideration, on a one-time basis, for the purchase, lease, or other acquisition of inventory property to the extent permitted by law. A class member must

exercise his right to the relief provided in the preceding sentence in writing and within 5 years of the date this order.

(b) USDA will provide each class member who prevails under ¶¶ 9(a) or 10 with priority consideration for one direct farm ownership loan and one farm operating loan at any time up to five years after the date of this Order. A class member must notify USDA in writing that he is exercising his right under this agreement to priority consideration in order to receive such consideration.

(c) Any application for a farm ownership or operating loan, or for inventory property submitted within five years of the date of this Consent Decree by any class member who prevails under ¶¶ 9 or 10, will be viewed in a light most favorable to the class member, and the amount and terms of any loan will be the most favorable permitted by law and USDA regulations. Nothing in the preceding sentence shall be construed to affect in any way the eligibility criteria for participation in any USDA loan program, except that outstanding debt discharged pursuant to ¶¶ 9(a)(iii)(A) or 10(g)(ii), above, shall not adversely affect the claimant's eligibility for future participation in any USDA loan or loan servicing program.

(d) In conjunction with any application for a farm ownership or operating loan or for inventory property submitted by a class member who prevails under ¶¶ 9 or 10, above, USDA shall, at the request of such class member provide the class member with

reasonable technical assistance and service, including the assistance of qualified USDA employees who are acceptable to the class member, in connection with the class member's preparation and submission of any such application.

12. Monitor

(a) From a list of three persons submitted to it jointly by the parties, or, if after good faith negotiations they cannot agree, two persons submitted by plaintiffs and two persons submitted by defendant, the Court shall appoint an independent Monitor who shall report directly to the Secretary of Agriculture. The Monitor shall remain in existence for a period of 5 years and shall not be removed except upon good cause. The Monitor's fees and expenses shall be paid by USDA.

(b) The Monitor shall:

(i) Make periodic written reports (not less than every six months) to the Court, the Secretary, class counsel, and defendant's counsel on the good faith implementation of this Consent Decree;

(ii) Attempt to resolve any problems that any class member may have with respect to any aspect of this Consent Decree;

(iii) Direct the facilitator, adjudicator, or arbitrator to reexamine a claim where the Monitor determines that a clear and manifest error has occurred in the screening, adjudication, or arbitration of the claim and has resulted or is likely to result in a fundamental miscarriage of justice; and

(iv) Be available to class members and the public through a toll-free telephone number in order to facilitate the lodging of any consent decree complaints and to expedite their resolution.

(c) If the Monitor is unable within 30 days to resolve a problem brought to his attention pursuant to subparagraph (ii), above, he may file a report with the parties' counsel who may, in turn, seek enforcement of this Consent Decree pursuant to ¶ 13, below.

13. Enforcement Procedures

Before seeking any order by the Court concerning the alleged violation of any provision of this Consent Decree, the parties must comply with the following procedures:

(a) The person seeking enforcement of a provision of this Consent Decree shall serve on his opponent a written notice that describes with particularity the term(s) of the Consent Decree that are alleged to have been violated, the specific errors or omissions upon which the alleged violation is based, and the corrective action sought. The person alleging the violation shall not inform the Court of his allegation at that time.

(b) The parties shall make their best efforts to resolve the matter in dispute without the Court's involvement. If requested to do so, the movant shall provide to his opponent any information and materials available to the movant that support the violation alleged in the notice.

(c) The person who served the notice of violation pursuant to subparagraph (a), above, may not move for enforcement of this Consent Decree until at least 45 days after the date on which he served the notice.

14. Attorney's Fees

(a) Class counsel (for themselves and all Of-Counsel) shall be entitled to reasonable attorney's fees and costs under ECOA, 15 U.S.C. § 1691e(d), and to reasonable attorney's fees, costs, and expenses under the APA, 28 U.S.C. § 2412(d) (as appropriate), that are generated in connection with the filing of this action and the implementation of this Consent Decree. Defendant reserves the right to challenge any and all aspects of class counsel's application for fees, costs, and/or expenses.

(b) Recognizing the fees, costs, and/or expenses already incurred, and given the anticipated fees, costs, and/or expenses to be incurred by class counsel in the implementation of this Consent Decree, defendant will make a one-time payment to class counsel of \$1,000,000 as a credit toward class counsel's application for attorney's fees, costs, and/or expenses. The payment shall be made to class counsel and of counsel (payable to Alexander J. Pires, Jr. and Phillip L. Fraas) within 20 days of the date on which this Consent Decree is entered by the Court. This one-time payment shall be credited against any ultimate award or negotiated settlement of fees, costs, and expenses, and to the extent any such ultimate award or settlement is less than this

one-time payment, class counsel shall refund to defendant the entire amount by which this one-time payment exceeds the award or settlement amount.

(c) The provision of attorney's fees, costs, and/or expenses in this Consent Decree is by agreement of the parties and shall not be cited a precedent in any other case.

15. Parties' Respective Responsibilities

No party to this Consent Decree is responsible for the performance, actions, or obligations of any other party to this Consent Decree.

16. Fairness Hearing

(a) Upon the parties' execution of this Consent Decree, the parties shall transmit the Decree to the Court for preliminary approval; request that the Court schedule a fairness hearing on the Consent Decree; and request that the Court, upon issuance of an order granting preliminary approval of this Decree, issue an order setting aside the dates currently scheduled for trial and staying this litigation.

(b) Within 5 days of the execution of this Consent Decree by class counsel and defendant's counsel, the Notice of Class settlement provided for in ¶ 4, above, containing, inter alia, a notice of the fairness hearing on this Consent Decree shall be sent to all known, potential members of the class. The fairness hearing will be held at 10:00 AM on March 2, 1999, in Courtroom 20 of the E. Barrett Pettyman United States Courthouse at 3rd St. and

Constitution Ave., N.W., Washington, D.C. Any objections to the entry of this Consent Decree shall be filed not later than February 15, 1999.

17. Final Judgment

If, after the fairness hearing, the Court approves this Consent Decree as fair, reasonable, and adequate, a Final Judgment, the entry of which shall be a condition precedent to any obligation of any party under this Consent Decree, shall be entered dismissing with prejudice, pursuant to the terms of this Consent Decree and Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure, all claims in the litigation.

18. Releases

As provided by the ordinary standards governing the preclusive effects of consent decrees entered in class actions, all members of the class who do not opt out of this Consent Decree pursuant to ¶ 2(b), above, and their heirs, administrators, successors, or assigns (together, the "Releasors"), hereby release and forever discharge the defendant and his administrators or successors, and any department, agency, or establishment of the defendant, and any officers, employees, agents, or successors of any such department, agency, or establishment (together, the "Releasees") from -- and are hereby themselves forever barred and precluded from prosecuting -- any and all claims and/or causes of action which have been asserted in the Seventh Amended Complaint, or could have been asserted in that complaint at the time it was

filed, on behalf of this class, by reason of, or with respect to, or in connection with, or which arise out of, any matters alleged in the complaint which the Releasors, or any of them, have against the Releasees, or any of them. It also is expressly understood that any class-wide claims of race-based discrimination in USDA's credit programs by members of the class defined in ¶ 2(a), above are barred unless the operative facts giving rise thereto did not occur prior to the entry of this Decree.

19. Defendant's Duty Consistent With Law and Regulations

Nothing contained in this Consent Decree or in the Final Judgment shall impose on the defendant any duty, obligation or requirement, the performance of which would be inconsistent with federal statutes or federal regulations in effect at the time of such performance.

20. No Admission of Liability

Neither this Consent Decree nor any order approving this Consent Decree is or shall be construed as an admission by the defendant of the truth of any allegation or the validity of any claim asserted in the complaint, or of the defendant's liability therefor, nor as a concession or an admission of any fault or omission of any act or failure to act, or of any statement, written document, or report heretofore issued, filed or made by the defendant, nor shall this Consent Decree nor any confidential papers related hereto and created for settlement purposes only, nor any of the terms of either, be offered or received as evidence

of discrimination in any civil, criminal, or administrative action or proceeding, nor shall they be construed by anyone for any purpose whatsoever as an admission or presumption of any wrongdoing on the part of the defendant, nor as an admission by any party to this Consent Decree that the consideration to be given hereunder represents the relief which could be recovered after trial. However, nothing herein shall be construed to preclude the use of this Consent Decree in order to effectuate the consummation, enforcement, or modification of its terms.

21. No Effect if Default

Subject to the terms of ¶ 17, above, and following entry by the Court of Final Judgment, no default by any person or party to this Consent Decree in the performance of any of the covenants or obligations under this Consent Decree, or any judgment or order entered in connection therewith, shall affect the dismissal of the complaint, the preclusion of prosecution of actions, the discharge and release of the defendant, or the judgment entered approving these provisions. Nothing in the preceding sentence shall be construed to affect the Court's jurisdiction to enforce the Consent Decree on a motion for contempt filed in accordance with ¶ 13.

22. Effect of Consent Decree if Not Approved

This Consent Decree shall not become binding if it fails to be approved by the Court or if for any reason it is rendered

ineffective in any judicial proceeding before initially taking effect. Should it fail to become binding, this Consent Decree shall become null and void and shall have no further force and effect, except for the obligations of the parties under this paragraph. Further, in that event: this Consent Decree; all negotiations in connection herewith; all internal, private discussions among the Department of Justice and/or USDA conducted in furtherance of the settlement process to determine the advisability of approving this Consent Decree; and all statements made by the parties at, or submitted to the Court during, the fairness hearing shall be without prejudice to any person or party to this Consent Decree, and shall not be deemed or construed to be an admission by any party to this Consent Decree of any fact, matter, or proposition.

23. Entire Terms of Agreement

The terms of this Consent Decree constitute the entire agreement of the parties, and no statement, remark, agreement, or understanding, oral or written, which is not contained herein, shall be recognized or enforced.

24. Authority of Class Counsel

Class counsel who are signatories hereto hereby represent, warrant, and guarantee that such counsel are duly authorized to execute this Consent Decree on behalf of the plaintiffs, the members of the plaintiff class, and all Of-Counsel for the plaintiffs.

25. Duty to Defend Decree

The parties to this Consent Decree shall employ their best efforts to defend this Consent Decree against any challenges to this Consent Decree, in any forum.

ALEXANDER J. PIRES, Jr.

Conlon, Frantz, Phelan, Pires
& Leavy
1818 N. St., N.W.
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Hubbard I Sanders, IV
Willie Smith

Consented to:

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Acting Assistant Attorney
General

PHILIP D. BARTZ
Deputy Assistant Attorney
General

DENNIS G. LINDER
Civil Division

MICHAEL SITCOV
CAROLINE LEWIS WOLVERTON
DANIEL E. BENSING
CARLOTTA WELLS
Department of Justice
Civil Division
901 E Street, N.W.
Washington, D.C. 20004
(202) 514-1944

SO ORDERED.

PAUL L. FRIEDMAN
United States District Judge

DATE:

EXHIBIT 4

to the

**Memorandum of Points and Authorities in Support of
Plaintiffs' Motion for Preliminary Approval of Settlement,
Certification of a Rule 23(b)(1)(B) Class,
And for Other Purposes**

In re Black Farmers Discrimination Litigation
Case No. 08-mc-0511-PLF (D.D.C.)

**Declaration
of Richard Bithell**

- IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

4. On July 14, 2000, the Court ordered that all late filing requests had to be submitted by September 15, 2000, in order for the Arbitrator to consider whether it satisfied the “extraordinary circumstances” test in paragraph 5(g) of the Consent Decree.
5. Epiq received, processed and routed the late filing requests to the Arbitrator for review.
6. Between October 12, 1999, and September 15, 2000, 58,431 individuals submitted late filing requests, but were determined by the Arbitrator not to have satisfied the 5(g) test.
7. Then between September 16, 2000, and May 22, 2008 (when § 14012 of the 2008 Farm Bill was passed), an additional 25,426 individuals submitted correspondence related to the Consent Decree. This correspondence consisted of the following: 1) 7,911 late-claim affidavit forms or letters in which an individual expressed an interest in filing a Pigford claim and 2) 17,515 form letters discussing the Consent Decree which could be construed as late filing requests.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on June 4, 2009.


Richard Bithell

EXHIBIT 5

to the

**Memorandum of Points and Authorities in Support of
Plaintiffs' Motion for Preliminary Approval of Settlement,
Certification of a Rule 23(b)(1)(B) Class,
And for Other Purposes**

In re Black Farmers Discrimination Litigation
Case No. 08-mc-0511-PLF (D.D.C.)

**Declaration of
Katherine Kinsella
(Proposed Notice
Provider)
and Notice Materials**

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**In re BLACK FARMERS DISCRIMINATION
LITIGATION**

Misc. No. 08-mc-0511 (PLF)

This document relates to:

ALL CASES

DECLARATION OF KATHERINE KINSELLA

I, Katherine Kinsella hereby declare as follows:

1. I am President of Kinsella Media, LLC (“KM”), an advertising and legal notification firm in Washington, D.C. specializing in the design and implementation of class action and bankruptcy notification programs to reach unidentified putative class members primarily in consumer and mass tort litigation. My business address is 2120 L Street, NW, Suite 860, Washington, D.C. 20037. My telephone number is (202) 686-4111.
2. I submit this declaration at the request of Plaintiffs’ Counsel in connection with *In re Black Famers Discrimination Litigation* pending in the U.S. District Court for the District of Columbia.
3. This declaration is based upon my personal knowledge and upon information provided by Plaintiffs’ Counsel, my associates, and staff. The information is of a type reasonably relied upon in the fields of advertising, media and communications.
4. KM has developed and directed some of the largest and most complex national notification programs in the country. The scope of the firm’s work includes notification programs in antitrust, bankruptcy, consumer fraud, mass tort, and product liability litigation. Specific cases have involved, among others, asbestos, breast implants, home siding and roofing

products, infant formula, pharmaceuticals, polybutylene plumbing, tobacco, and Holocaust claims. The firm has developed or consulted on over 700 notification programs and has placed over \$240 million in media notice. Selected cases are attached as Attachment 1.

5. Courts have admitted expert testimony from KM on our firm's quantitative and qualitative evaluations of notice programs. Many Courts have commented favorably, on the record, regarding the effectiveness of notice plans prepared by KM. Selected judicial comments are attached as Attachment 2.
6. I have testified as an expert at trial and in a deposition in *Engle v. R. J. Reynolds Tobacco*, No. 94-08273 (Fla. Cir. Ct., Dade County). I have been deposed as an expert in *In re NASDAQ Market-Makers Antitrust Litigation*, M21-68 RWS), 94-CIV. 3994 (RWS), M.D.L. No. 123 (S.D.N.Y.), *In re Dow Corning*, No. 95-20512 (Bankr. E.D. Mich.), *Georgine v. Amchem, Inc. et al.*, C.A. No. 93-CV-0215 (E.D. Pa.), *In re W. R. Grace & Co.*, Chapter 11, No. 01-01139 (JJF) (Bankr. D. Del.) and *Gross v. Chrysler Corp.*, No. 061170 (Md. Cir. Ct., Montgomery County). I have testified in court in *In re Swan Transportation Company*, Chapter 11, Case No. 01-11690, *Cox v. Shell Oil Co.*, No. 18,844 (Tenn. Ch. Ct., Obion County), *Ahearn v. Fibreboard Corporation*, C.A. No. 6:93cv526 (E.D. Tex.) and *Continental Casualty Co. v. Rudd*, C.A. No. 6:94cv458 (E.D. Tex.).
7. I am the author of *Reality Check: The State of New Media Options for Class Notice*, published in 2010 in A Practitioner's Guide to Class Actions;¹ the co-author of *Class Action Notice and Claims Administration*, published in December 2010 in The International Handbook on Private Enforcement Of Competition Law;² the author of *The Plain Language Tool Kit for Class Action Notice*, published in the October 25, 2002 issue of Class Action

¹ Published by the Tort Trial & Insurance Practice Section of the American Bar Association.

² Published by Edward Elgar Publishing, Inc.

Litigation Report,³ and the author of *Quantifying Notice Results in Class Actions – the Daubert/Kumho Mandate*, published in the July 27, 2001 issue of Class Action Litigation Report⁴ and the August 7, 2001 issue of The United States Law Week.⁵ In addition, I am author of *The Ten Commandments of Class Action Notice*, published in the September 24, 1997 issue of the Toxics Law Reporter,⁶ and co-author of *How Viable Is the Internet for Class Action Notice*, published in the March 25, 2005 issue of Class Action Litigation Report.⁷

8. KM was retained to design and implement the Proposed Class Action Settlement Notice Program (Attachment 3) in this litigation. We have helped prepare the following Notice materials for use in accordance with this Notice Program:

- a. A Long-Form Notice;
- b. A Postcard Notice;
- c. A Publication Notice;
- d. A script for Radio Advertisements about the Settlement; and
- e. A script for Public Service Announcements about the Settlement.

We will also be participating in the development and dissemination of Notice through other means outlined in the Notice Program, including, but not limited to, a website and toll-free phone line, earned media efforts, and outreach to organizations that regularly interact with prospective Class Members.

³ Published by The Bureau of National Affairs (BNA).

⁴ *Ibid.* BNA.

⁵ *Ibid.* BNA.

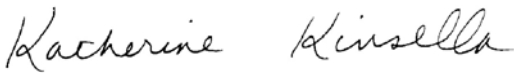
⁶ *Ibid.* BNA.

⁷ *Ibid.* BNA.

9. Fed. R. Civ. P. 23(c)(2)(B) requires that class action notices be written in "plain, easily understood language." As in all cases in which KM is asked to prepare and opine to notice materials for class actions, KM has endeavored to use plain and easily understood language in all of the Notice materials it has prepared for this case.
10. Based on my experience in developing notice plans and preparing notice materials for numerous class actions, it is my opinion that the attached Notice Program, consisting of direct notice and a multi-faceted program of targeted media and third party outreach, is the best notice practicable under the circumstances to reach potential members of the proposed Class in this case, and it is consistent with the standards employed by KM in other notification programs designed to reach members of settlement groups or classes. It is my opinion, therefore, that the Notice Program a proposed for this case will afford due process to members of the proposed Class and satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.

* * * * *

I declare that the foregoing declaration is true and correct to the best of my personal knowledge, information, and belief.



March 23, 2011

Katherine Kinsella

Date

ATTACHMENT 1:

SELECTED KM CASES



SELECTED KM CASES

ANTITRUST

Big Valley Milling, Inc. v. Archer Daniels Midland Co., No. 65-C2-96-000215 (Minn. Dist. Ct. Renville County) (lysine).

Carlson v. Abbott Laboratories, No. 94-CV-002608 (Wis. Cir. Ct. Milwaukee County) (infant formula).

Comes v. Microsoft Corp., No. CL8231 (Iowa Dist. Ct. Polk County
Connecticut v. Mylan Laboratories, Inc., No. 99-276, MDL No. 1290 (D.D.C.) (pharmaceutical).

Conroy v. 3M Corp., No. C-00-2810 CW (N.D. Cal.) (invisible tape).

Copper Antitrust Litigation, MDL 1303 (W.D. Wis.) (physical copper).

Cox v. Microsoft Corp., No. 105193/00 (N.Y. Sup. Ct. N.Y. County) (software).

D.C. 37 Health & Security Plan v. Medi-Span, No. 07-cv-10988 (D.Mass.); *New England Carpenters Health Benefits Fund v. First DataBank, Inc.*, No. 1:05-CV-11148 (D. Mass.) (pharmaceutical).

Giral v. Hoffman-LaRoche Ltd., C.A. No. 98 CA 7467 (W. Va. Cir. Ct., Kanawha County) (vitamins).

In re Buspirone Antitrust Litigation, MDL No. 1413 (S.D.N.Y.) (pharmaceutical).

In re Cardizem Antitrust Litigation, 200 F.R.D. 326 (E.D. Mich.) (pharmaceutical).

In re Compact Disc Minimum Price Antitrust Litigation, MDL No. 1361 (D. Me.) (compact discs).

In re Insurance Brokerage Antitrust Litig., MDL No. 1663 Civil No. 04-5184 (FSH) (D.N.J.) (insurance).

In re International Air Transportation Surcharge Antitrust Litigation, No. M 06-1793, MDL No. 1793 (N.D. Cal.) (airline fuel surcharges).

In re Monosodium Glutamate Antitrust Litig., D-0202-CV-0200306168, D-202-CV-200306168 (N.M. Dist. Ct., Bernalillo County) (MSG).

In re Motorsports Merchandise Antitrust Litigation, No. 1:97-CV-2314-TWT (N.D. Ga.) (merchandise).

In re Nasdaq Market-Makers Antitrust Litigation, MDL No. 1023 (S.D.N.Y.) (securities).
In re Pharmaceutical Industry Average Wholesale Price Litigation, No. CA:01-CV-12257, MDL No. 1456 (D. Mass.) (pharmaceutical).

In re Toys "R" Us Antitrust Litigation, No. CV-97-5750, MDL No. 1211, (E.D.N.Y.) (toys and other products).

In re Western States Wholesale Natural Gas Antitrust Litigation, No. CV-03-1431, MDL No. 1566, (D. Nev) (natural gas).

Kelley Supply, Inc. v. Eastman Chemical Co., No. 99CV001528 (Wis. Cir. Ct., Dane County) (Sorbates).

Ohio vs. Bristol-Myers Squibb, Co., No. 1:02-cv-01080 (D.D.C.) (pharmaceutical).

Raz v. Archer Daniels Midland Co., Inc., No. 96-CV-009729 (Wis. Cir. Ct. Milwaukee County) (citric acid).

CONSUMER AND PRODUCT LIABILITY

Azizian v. Federated Department Stores, Inc., No. 4:03 CV-03359 (N.D. Cal.) (cosmetics).

Baird v. Thomson Consumer Elecs., No. 00-L-000761 (Ill. Cir. Ct., Madison County) (television).

Bonilla v. Trebol Motors Corp., No. 92-1795 (D.P.R.) (automobiles).

Burch v. American Home Products Corp., No. 97-C-204 (1-11) (W. Va. Cir. Ct., Brooke County) (Fen Phen).

Cosby v. Masonite Corp., No. CV-97-3408 (Ala. Cir. Ct. Mobile County) (siding product); *Quin v. Masonite Corp.*, No. CV-97-3313 (Ala. Cir. Ct. Mobile County) (roofing product).



Cox v. Shell Oil Co., No. 18,844 (Tenn. Ch. Ct. Obion County) (polybutylene pipe).

Daniel v. AON Corp., No. 99 CH 11893 (Ill. Cir. Ct. Cook County) (insurance).

Fettke v. McDonald's Corp., No. 044109 (Cal. Super Ct. Marin County) (trans fatty acids).

Florida v. Nine West Group, Inc., No. 00 CIV 1707 (S.D.N.Y.) (shoes).

Foothill/De Anza Community College Dist. v. Northwest Pipe Co., No. 00-20749-JF(N.D. Cal.) (fire sprinklers).

Galanti v. The Goodyear Tire & Rubber Company, No. 03-209 (D.N.J.) (radiant heating) (2002).

Garza v. Sporting Goods Properties, Inc., No. SA 93-CA-1082 (W.D. Tex.) (gun ammunition).

Hoorman v. GlaxoSmithKline, No. 04-L-715 (Ill. Cir. Ct., Madison Cty.) (Paxil pharmaceutical).

In re Louisiana Pacific Corp. Inner Seal OSB Trade Practices Litigation, MDL No. 1114 (N.D. Cal.) (oriented strand board).

In re Tri-State Crematory Litig, MDL 1467 (N.D. Ga.) (improper burial).

Lebrilla v. Farmers Group Inc., No. 00-CC-07185 (Cal. Super. Ct., Orange County) (auto insurance).

Lovelis v. Titflex, No. 04-211 (Ak. Cir. Ct., Clark County) (gas transmission pipe).

Naef v. Masonite Corp., No. CV-94-4033 (Ala. Cir. Ct. Mobile County) (hardboard siding product).

Peterson v. BASF Corp., No. C2-97-295 (D. Minn.) (herbicide).

Posey v. Dryvit Sys., Inc. No. 17,715-IV (Tenn. Cir. Ct., Jefferson County) (EIFS stucco).

Reiff v. Epson America, Inc. and Latham v. Epson Am., Inc., J.C.C.P. No. 4347 (Cal. Super. Ct., L.A. County) (ink jet printers).



Richison v. Weyerhaeuser Company Limited, No. 05532 (Cal. Super. Ct. San Joaquin County) (roofing product).

Ruff v. Parex, Inc., No. 96-CvS 0059 (N.C. Super. Ct. Hanover County) (synthetic stucco product).

Shah v. Re-Con Building Products, Inc., No. C99-02919 (Cal. Super. Ct. Contra Costa County) (roofing product).

Shields vs. Bridgestone/Firestone, Inc., Bridgestone Corp., No. E-167.637 (D. Tex.) (tires).

Smith v. Behr Process Corp., No. 98-2-00635 (Wash. Super. Ct., Gray Harbor County) (stain product).

Weiner v. Cal-Shake, Inc., J.C.C.P. No. 4208 (Cal. Super. Ct., Contra Costa County) (roofing product).

Wholesale Elec. Antitrust Cases I & II, J.C.C.P. Nos. 4204 & 4205 (Cal. Super. Ct., San Diego County) (energy).

Woosley v. State of California, No. CA 000499 (Cal. Super. Ct., Los Angeles County) (automobiles).

MASS TORT

Ahearn v. Fibreboard Corp., No. 6:93cv526 (E.D. Tex); *Continental Casualty Co. v. Rudd*, No. 6:94cv458 (E.D. Tex) (asbestos injury).

Backstrom v. The Methodist Hospital, No. H.-94-1877 (S.D. Tex.) (TMJ injury).

Engle v. RJ Reynolds Tobacco Co., No. 94-08273 (Fla. Cir. Ct. Dade County) (tobacco injury).

Georgine v. Amchem, Inc., No. 93-CV-0215 (E.D. Pa.) (asbestos injury).

BANKRUPTCIES

In re Armstrong World Industries, Inc., No. 00-4471 (Bankr. D. Del.).



In re Dow Corning, No. 95-20512 (Bankr. E.D. Mich.) (breast implants).

In re Johns-Manville Corp., 68 B.R. 618, 626 (Bankr. S.D.N.Y.) (asbestos).

In re Kaiser Aluminum Corp., No. 02-10429 (JFK) (D. Del.).

In re Owens Corning, No. 00-03837 (Bankr. D. Del.).

In re Raytech Corp., No. 5-89-00293 (Bankr. D. Conn.) (asbestos).

In re The Celotex Corp., Nos. 90-10016-8B1 and 90-10017-8B1 (Bankr. M.D. Fla.) (asbestos).

In re U.S. Brass Corp., No. 94-40823S (Bankr. E.D. Tex.) (polybutylene).

In re USG Corp., Nos. 01-2094 - 01-2104 (Bankr. D. Del.).

In re W.R. Grace & Co., No. 01-01139 (Bankr. D. Del.).

INSURANCE

McNeil v. American General Life and Accident Insurance Co., No. 8-99-1157 (M.D. Tenn.) (insurance).

Nealy v. Woodmen of the World Life Insurance Co., No. 3:93 CV-536 (S.D. Miss.) (insurance).

HOLOCAUST VICTIMS REPARATIONS

In re Holocaust Victim Assets Litigation, Nos. CV 96-4849, CV-5161 and CV 97-461 (E.D.N.Y.) (Holocaust).

The International Commission on Holocaust Era Insurance Claims Outreach

PENSION BENEFITS

Collins v. Pension Benefit Guarantee Corp., No. 88-3406 (D.D.C.); *Page v. Pension Benefit Guarantee Corp.*, No. 89-2997 (D.D.C.).



Forbush v. J. C. Penney Co., Inc., Nos. 3:90-2719 and 3:92-0109 (N.D. Tex.).

INTERNATIONAL

Ahearn v. Fiberboard Corporation, No. 6:93cv526 (E.D. Tex) and *Continental Casualty Co. v. Rudd*, No. 6:94cv458 (E.D. Tex.) (asbestos injury) (1993).

Galanti v. The Goodyear Tire & Rubber Company, No. 03-209 (D.N.J.) (radiant heating) (2002).

In re Holocaust Victims Assets Litigation, No. CV 96-4849 (ERK) (MDG) (Consolidated with CV-5161 and CV 97461) (E.D.N.Y.) (2003).

In re Owens Corning, Chapter 11, No. 00-03837 (MFW) (Bankr. D. Del.) (2006).

In re The Celotex Corporation, Chapter 11, Nos. 90-10016-8B1 and 90-10017-8B1 (Bankr. M.D. Fla.) (1996).

In re USG Corporation, Chapter 11, Nos. 01-2094 (RJN) through 01-2104(RJN) (Bankr. D. Del.) (2006).

In re Western Union Money Transfer Litigation, No. 01 0335 (CPS) (VVP) (E.D.N.Y.) (wire transactions) (2004).

In re W.R. Grace & Co., Chapter 11, No. 01-01139 (Bankr. D. Del.) (bankruptcy) (2001).

International Committee on Holocaust Era Insurance Claims (1999).

PRODUCT RECALL

Central Sprinkler Voluntary Omega Sprinkler Replacement Program

Hart v. Central Sprinkler Corp., No. BC17627 (Cal. Super. Ct. Los Angeles County) & *County of Santa Clara v. Central Sprinkler Corp.*, No. CV 17710119 (Cal. Super. Ct. Santa Clara County)

TELECOM

Bidner, et al. v. LCI International Telecom Corp d/b/a Qwest Communications.



Community Health Association v. Lucent Technologies, Inc., No. 99-C-237, (W.Va. Cir. Ct., Kanawha County).

Cundiff et al. v. Verizon California, Inc., No. 237806 (Cal. Super Ct., Los Angeles County).

Kushner v. AT&T Corporation, No. GIC 795315 (Cal. Super. Ct., San Diego County).

Rish Enterprise v. Verizon New Jersey, No. MID-L-8946-02 (N.J. Super. Ct.).

Sonnier, et. al. v. Radiofone, Inc., No. 44-844, (L.A. Jud. Dist. Ct., Plaquemine Parish County).

State of Louisiana v. Sprint Communications Company L.P., No. 26,334 (Jud. Dis. Ct., Parish of West Baton Rouge) and *State of Louisiana v. WilTel, Inc.*, No. 26,304 (Jud. Dis. Ct., Parish of West Baton Rouge).



ATTACHMENT 2:

JUDICIAL COMMENTS



JUDICIAL COMMENTS

Ahearn v. Fibreboard Corp., No. 6:93 cv526 (E.D. Tex.); *Continental Casualty Co. v. Rudd*, No. 6:94cv458 (E.D. Tex.).

In approving the notice plan for implementation in the Ahearn and Rudd class actions in 1994, Judge Parker stated, "I have reviewed the plan of dissemination, and I have compared them to my knowledge at least of similar cases, the notices that Judge Weinstein has worked with [Agent Orange] and Judge Pointer [Silicon Gel Breast Implants], and it appears to be clearly superior." - Chief Judge Robert M. Parker (1994)

Azizian v. Federated Department Stores, Inc., No. 3:03 CV-03359 (N.D. Cal.).

"The notice was reasonable and the best notice practicable under the circumstances; was due, adequate and sufficient notice to all class members; and complied fully with the laws of the United States and of the Federal Rules for Civil Procedure, due process and any other applicable rules of court." - Hon. Sandra Brown Armstrong (2004)

Collins v. Pension Benefit Guarantee Corp., No. 88-3406 (D.D.C.).

"The notice provided was the best notice practicable under the circumstances. Indeed, the record shows that the notice given was consistent with the highest standards of compliance with Rule 23(e)." (1996)

Cox v. Microsoft Corporation, No. 105193/00 (N.Y. Sup. Ct. N.Y. County).

"The court finds that the combination of individual mailing, e-mail, website and publication notice in this action is the most effective and best notice practicable under all the circumstances, constitutes due, adequate and reasonable notice to all Class members and otherwise satisfies the requirements of CPLR 904, 908 and other applicable rules. The Settlement meets the due process requirement for class actions by providing Class members an opportunity either to be heard and participate in the litigation or to remove themselves from the Class." - Hon. Karla Moskowitz (2006)

Cox v. Shell Oil Co., No. 95-CV-2 (Tenn. Ch. Ct. Obion County).

In the order approving the settlement of the polybutylene pipe class action, Judge Maloan stated, "The Court finds the notice program is excellent. As specified in the findings below, the evidence supports the conclusion that the notice program is one of the most comprehensive class notice campaigns ever undertaken." (1995)

Foothill/De Anza Community College District v. Northwest Pipe Co., No. CV-00-20749 (N.D. Cal.).

“The Court finds that the settling parties undertook a thorough and extensive notice campaign designed by Kinsella/Novak Communications, Ltd., a nationally-recognized expert in this specialized field. The Court finds and concludes that the Notice Program as designed and implemented provides the best practicable notice to the Class, and satisfied requirements of due process.” - Hon. Jeremy Fogel (2004)

Galanti v. The Goodyear Tire & Rubber Co., No. 03-209 (D.N.J.).

“The published notice, direct notice and Internet posting constituted the best practicable notice of the Fairness Hearing, the proposed Amended Agreement, Class Counsels’ application for fees, expenses and costs, and other matters set forth in the Class Notice and the Summary Notice. The notice constituted valid, due and sufficient notice to all members of the Settlement Classes, and complied fully with the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Constitution of the United States, the laws of New Jersey and any other applicable law.” – Hon. Stanley R. Chesler (2004)

Georgine v. Amchem, 158 F.R.D. 314, 326 (E.D. Pa.).

Judge Reed explained that the notice program developed by Kinsella “goes beyond that provided in [previous cases]” and “the efforts here are more than adequate to meet the requirements of Rule 23(c)(2).” (1993)

Higgins v. Archer-Daniels Midland Co., Second Judicial District Court, County of Bernalillo C-202-CV-200306168 (N.M. 2d Jud. Dist. Bernalillo County).

“The Court finds that the form and method of notice given to the Settlement Class, including both mailed notice to persons and firms for whom such notice was practical and extensive notice by publication through multiple national and specialized publications, complied with the requirements of Rule 1-023 NMRA 2006, satisfied the requirements of due process, was the best notice practicable under the circumstances, and constituted due and sufficient notice of the Settlement Agreements and their Final Approval Hearing, and other matters referred to in the Notice. The notice given to the Settlement Class was reasonably calculated under the circumstances to inform them of the pendency of the actions involved in this case, of all material elements of the proposed Settlements, and of their opportunity to exclude themselves from, object to, or comment on the Settlements and to appear at the Final Approval Hearing.” -Hon. William F. Lang (2006)

In re Compact Disc Minimum Advertised Price Antitrust Litigation, MDL No. 1361 (D. Me.).

In approving the notice plan for implementation in the Compact Disc Minimum Advertised Price Antitrust Litigation, Judge D. Brock Hornby stated, “(the plan) provided the best practicable notice under the circumstances and complied with the requirements of both 15 U.S.C. 15c(b) (1) ... the



notice distribution was excellently designed, reasonably calculated to reach potential class members, and ultimately highly successful in doing so.” - Hon. D. Brock Hornby (2002/2003)

In re International Air Transportation Surcharge Antitrust Litigation, No. M 06-1793, MDL No. 1793 (N.D. Cal.).

In approving the notice plan in this litigation that involved a proposed settlement of more than \$200 million for U.S. and U.K. class members, U.S. District Judge Charles Breyer repeatedly praised KNC: “I think the notice is remarkable in this case. . . . This is brilliant. This is the best notice I’ve seen since I’ve been on the bench. . . . Turning back to the settlement, again I want to applaud the parties for the notice. I mean it’s amazing. You know, it really is good. And I don’t know where this person practices, I don’t even know that she’s a lawyer. But she really did a good job on this announcement, this notice. So thank you very much. . . . And I once again want to express my sincere appreciation of the notice. I mean, I was just extraordinarily impressed. Extraordinarily impressed.” – Hon. Charles Breyer (2008)

In re The Celotex Corporation, Nos. 90-10016-8B1 and 90-10017-8B1 (Bankr. M.D. Fla.).

“...all counsel should be complimented on the fact that they have gone to every possible conceivable method of giving notice from putting it on TV and advertising it in papers..... the record should also reflect the Court’s appreciation to Ms. Kinsella for all the work she’s done, not only in pure noticing, but ensuring that what noticing we did was done correctly and professionally.” - Hon. Thomas E. Baynes, Jr.

In re Western States Wholesale Natural Gas Antitrust Litigation, No. CV-03-1431, MDL No. 1566, (D. Nev) (natural gas).

“This notice program fully complied with Federal Rule of Civil Procedure 23 and the requirements of due process. It provided to the MDL Class the best notice practicable under the circumstances.” - Hon. Philip M. Pro (2007)

Johns-Manville Corp. 68 B.R. 618, 626 (Bankr. S.D.N.Y. 1986), *aff’d*, 78 B.R. 407 (S.D.N.Y. 1987), *aff’d sub nom. Kane v. Johns-Manville Corp.* 843 F.2d. 636 (2d Cir. 1988).

In approving the notification plan in the Johns-Manville Bankruptcy Reorganization, the court referred to it as “an extensive campaign designed to provide the maximum amount of publicity ... that was reasonable to expect of man and media.” - Hon. Burton Lifland (1996/1998)

Lovelis v. Titeflex Corp., No. CIV-2004-211 (Ark. 9th Cir. Ct. Clark Co.).

“Accordingly, the Notice as disseminated is finally approved as fair, reasonable, and adequate notice under the circumstances. The Court finds and concludes that due and adequate notice of the pendency



of this Action, the Stipulation, and the Final Settlement Hearing has been provided to members of the Settlement Class, and the Court further finds and concludes that the Notice campaign described in the Preliminary Approval Order and completed by the Parties complied fully with the requirements of Arkansas Rule of Civil Procedure 23 and the requirements of due process under the Arkansas and United States Constitutions. The Court further finds that the Notice campaign undertaken concisely and clearly states in plain, easily understood language:

- (a.) the nature of the action;
- (b.) the definition of the class certified;
- (c.) the class claims, issues or defenses;
- (d.) that a Class Member may enter an appearance and participate in person or through counsel if the member so desires;
- (e.) that the Court will exclude from the class any member who requests exclusion, stating when and how members may elect to be excluded; and
- (f.) the binding effect of the Final Order and Judgment on Class Members.

- Hon. John A. Thomas

Naef v. Masonite Corp., No. CV-94-4033 (Ala. Cir. Ct. Mobile County).

“In November, 1997, the Court approved a massive Notice Program to apprise class members of the class action Settlement, including the individually mailed, notices, publication notice and notification by way of other avenues nationally and locally. This Notice Program was designed by recognized experts, approved by the mediator and the Court, and implemented diligently by the parties, at defendants’ cost. It provided the best notice practicable to the Class, comports with due process, and was clearly adequate under Alabama Rule of Civil Procedure 23(e), the United States Constitution, and other applicable law.” - Hon. Robert G. Kendall (1997)



ATTACHMENT 3: **NOTICE PROGRAM**



NOTICE PROGRAM

In re Black Farmers Discrimination Litigation

No. 08-mc-511

U.S. District Court for the District of Columbia

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FIRM OVERVIEW

Kinsella Media, LLC (“KM”) is a nationally recognized advertising and legal notification firm specializing in the design and implementation of class action and bankruptcy notification programs to reach unidentified putative class members.

KM has developed and directed some of the largest and most complex national notification programs, primarily in antitrust, bankruptcy, consumer fraud, mass tort, and product liability litigation. Specific cases have spanned a broad spectrum of issues, including asbestos, breast implants, home siding and roofing products, infant formula, pharmaceuticals, polybutylene plumbing, tobacco, and Holocaust claims. The firm has developed or consulted on over 700 notification programs and has placed over \$240 million in paid media notice.

KM develops advertisements, press materials, websites, and other notice materials that bridge the gap between litigation complexities and the need for a clear and simple explanation of legal rights. The firm employs industry-recognized tools of media measurement to quantify the adequacy of the notice for the court, and ensures all notice materials are in “plain language” and are fully compliant with Rule 23 of the Federal Rules of Civil Procedure (“Rule 23”) and comparable state guidelines.

CASE BACKGROUND

CASE BACKGROUND:
SITUATION ANALYSIS

In 1999, the U.S. Department of Agriculture (“USDA”) and a class of African American farmers settled claims in the case of *Pigford v. Glickman* (“*Pigford*”) that the USDA, because of race discrimination, had wrongfully denied the farmers loans and other benefits between 1981 and 1996. The terms of this settlement, including a claims resolution process whereby Class Members could petition to have their individual claims of discrimination adjudicated by Court-appointed neutrals, were incorporated into a Consent Decree. Many Class Members who may have been entitled to benefits under that settlement did not file claims before the deadline set by the Court under the Consent Decree, and therefore never received a determination on the merits of their *Pigford* claims.

In 2008, Congress passed a law entitling certain African American farmers who sought to file *Pigford* claims under the *Pigford* Consent Decree, but were precluded from doing so because their requests were untimely, to bring new claims for relief if they would have been eligible for relief under the *Pigford* Consent Decree. In February 2010, a Settlement was reached in *In re Black Farmers Discrimination Litigation*, Case No. 08-mc-0511 (D.D.C.), on behalf of a putative Class of such African American farmers who may be entitled to the remedies provided by the 2008 law. In December 2010, the President signed into law a measure appropriating funds for the Settlement.

The *Pigford* Facilitator has retained mailing addresses for many late-filing *Pigford* claimants, some of whom are now putative Class Members in *In re Black Farmers Discrimination Litigation*, and has sent mailings to most of those farmers at least once. However, due to the passage of time, not all the addresses are current, and of those that are not current, it is quite possible that even with research, a current address will not be located. Because direct notice in this case will not reach all potential Class Members, and because of the importance of ensuring that all Class Members have an opportunity to timely file a claim, a targeted paid media notice program is strongly recommended.

CASE BACKGROUND:

CLASS DEFINITION

The Class is defined as “all individuals: (1) who submitted late-filing requests under Section 5(g) of the *Pigford v. Glickman* Consent Decree on or after October 13, 1999 and on or before June 18, 2008; but (2) who have not obtained a determination on the merits of their discrimination complaints, as defined by Section 1(h) of the Consent Decree.”

NOTICE PROGRAM OVERVIEW

NOTICE PROGRAM OVERVIEW: **PROGRAM COMPONENTS**

This Notice Program outlines procedures to provide notice of the Settlement of *In re Black Farmers Discrimination Litigation* as a class action, consistent with the requirements set forth in Rule 23 of the Federal Rules of Civil Procedure.

Based upon information provided by Class Counsel, the results of research on Class Members and their response to media and the media habits of the target audience, KM recommends the following four-component Notice Program:

➤ **DIRECT NOTICE:**

- The Postcard Notice (see page 35) will be sent via first-class mail to all individuals with identifiable addresses on file with the Facilitator in the original *Pigford* litigation.
- The Long Form Notice (see page 36) will be:
 - Sent via first-class mail to:
 - All individuals who request the Notice as a result of seeing the Publication Notice (see page 37).
 - All putative Class Members who request a copy via the toll-free information line or the PO Box detailed in the Publication Notice.
 - Available on the informational website as a PDF file.

➤ **PAID MEDIA NOTICE:** After careful research of the demographics of Class Members, KM recommends broad paid media notice comprised of radio, print, and Internet vehicles that will reach those Class Members, including:

- National African American network radio, agricultural radio networks throughout the southeast and other areas where a significant number of putative Class Members reside, and local radio placements in areas with the highest concentrations of putative Class Members. (Location of putative Class Members was based on zip code data received from the *Pigford* Facilitator. The data was sorted into gross numbers by zip code, county, and state and did not contain any personal information about filers.)
- Print placements in African American focused newspapers, community newspapers, and the largest circulating Sunday newspaper in areas with the highest concentration of putative Class Members as well as a targeted national consumer magazine and a national newspaper supplement.
- Print placements in farming/ranching trade publications.
- Internet banner ads on African American-focused online networks and websites.

- **THIRD-PARTY OUTREACH:** There are numerous organizations that have worked extensively with putative Class Members in connection with the original *Pigford* case and the current litigation. These organizations may have ongoing interactions with putative Class Members. These groups and other entities, such as churches, civil rights groups, and general agriculture organizations may be willing to distribute information during the claims-filing period by sending the Publication Notice or other summary information to their members, displaying flyers, or otherwise helping to share information via “word of mouth.” This assistance would be especially helpful because the organizations are already trusted as reliable information sources by putative Class Members. KM will execute a third-party outreach program after the final approval hearing to a variety of organizations to help remind Class Members about the impending claims deadline.
- **EARNED MEDIA:** KM recommends supporting the paid media notice efforts with earned media outreach, through:
- A traditional press release sent to major media outlets.
 - A radio public service announcement (PSA), distributed to radio outlets in areas with high concentrations of putative Class Members.
 - Targeted “pitch” calls to media outlets in areas with high concentrations of putative Class Members, to encourage the outlets to report on the Settlement and how putative Class Members may file a claim. Pitch calls would also ask targeted broadcast stations to carry the PSA.

In addition, during the claims-filing period, KM recommends distribution of a video B-roll package to television outlets nationwide. These earned media components are explained in more detail on pages 41 and 42.

To ensure putative Class Members’ easy access to updated information, KM also recommends a dedicated Settlement website, and Internet search engine sponsorships through keyword/phrase searches to facilitate putative Class Members’ access to the site.

NOTICE PROGRAM OVERVIEW: **DIRECT NOTICE**

The vast majority of putative Class Members in this case are identified, but the parties do not have current contact information for a portion of the Class. The direct notice program will therefore begin with intensive research to maximize the accuracy of the existing list of putative Class Member contact information. The direct notice program would then involve:

- Initial mailing of the Postcard Notice to the existing list of putative Class Members, followed by additional research based on returned mail.
- After a period of time agreed upon by the parties, the Claims Administrator will re-contact with an additional postcard all putative Class Members on the existing list who are not represented by counsel and have not yet filed a Claim Form.
- After an additional period of time agreed upon by the parties, the Administrator will re-contact by phone all putative Class Members on the existing list who are not represented by counsel and have not yet filed a Claim Form.

The Long Form Notice will be mailed to anyone who requests more information, and will be available on the informational website.

EFFICACY OF POSTCARD NOTICE

In some cases, KM believes that initial notice in the form of a postcard is the most effective means of conveying information to Class Members. This is especially true when education levels and understanding of the legal system vary across the Class. In this case, taking into consideration Class demographics, the amount and complexity of information in the Long Form Notice, and that this is not the first time Class Members are hearing about the case, postcard notice provides the best means of communicating with Class Members.

The Postcard Notice has been carefully designed to alert the recipient to the importance of the information and is written in plain language at a reasonable reading level.

Numerous courts have approved the use of postcard notice,¹ and research has shown that a summary notice is more likely to be read by recipients than a longer form notice. Based on extensive research including focus groups, the Federal Judicial Center (“FJC”) believes that summary notices should be mailed in many class action cases.

¹ See, e.g., *Lockwood v. Certegy Check Services, Inc.*, No. 8:07-cv-01434 (M.D. Fla.); *Hillis v. Equifax Consumer Services*, No. 1:04-cv-3440 (N.D. Ga.); *Larson v. Sprint Nextel Corp.*, 2010 U.S. Dist. LEXIS 3270 (D. N.J.); *In re Countrywide Fin. Corp. Consumer Data Sec. Breach Litigation*, 2009 U.S. Dist. LEXIS 119870 (W.D. Ky.); *Ambrogi, et al. v. Verizon Internet Services, Inc.*, No. BC-328283 (Cal. Super. Ct.); *Benney v. Sprint Spectrum, L.P.*, No. 05-CV-1422 (Kan. Dist. Ct.); *Campbell v. AirTouch Cellular*, No. D-044759, 2006 WL 754005 (Cal. Super. Ct.); *In re Antibiotic Antitrust Actions*, 333 F. Supp. 278 (S.D.N.Y.); *Parker v. Berkeley Premium Nutraceuticals, Inc.*, No. 04-CV-1903 (Ohio Ct. C.P.); *Perez v. Asurion*, 501 F.Supp.2d 1360 (S.D. Fla. 2007); *Schwartz v. GE Capital Consumer Card*, No. 06-CV-0394 (E.D.N.Y.); *Snow v. Lenscrafters, Inc.*, No. CGC-02-405544 (Cal. Super. Ct.).

Furthermore, U.S. Postal Service research shows that in 2008, 79% of recipients either “read” or “scan[ned]” the advertising mail (the category into which legal notices fall) sent to their households. In 2006 and 2007, that percentage was 81%. In order to decide to read or toss advertising mail, the recipient must look at the envelope or mailer. Both sides of the Postcard Notice in this case will be designed to capture the attention of Class Members, who are particularly aware of this case and its importance given that most filed a claim in the original *Pigford* case.

SECOND POSTCARD NOTICE

The purpose of the second postcard notice is to provide a reminder to Class Members who have not yet filed a claim and who the Administrator’s records show are not represented by counsel about the opportunity to file a claim, with ample time remaining to file a claim.

PHONE CONTACT CAMPAIGN

The goal of the phone contact campaign will be to make sure that as many Class Members as possible receive sufficient information about the Settlement to decide whether to pursue a claim.

NOTICE PROGRAM OVERVIEW: **PAID MEDIA PLACEMENTS SUMMARY**

To reach Class Members for whom the Administrator does not have current contact information, and to provide Class Members with additional exposure to the notice message in an effort to encourage claims-filing, KM recommends the use of targeted paid media. Paid media advertising is guaranteed to appear, allowing for control of the content, timing, and positioning of the message. Newspapers, consumer magazines, television, radio, and the Internet, among other sources, offer paid media opportunities.

The following list provides a brief summary of KM's recommended media placements in this case. More detailed information about each publication and its applicability to the target audience in this case appears in the Paid Media Placements section of this plan.

PRINT

Newspapers

- Approximately 50 Sunday newspapers in markets with the highest concentration of putative Class Members
- Approximately 161 African American-focused newspapers in markets with a significant number of putative Class Members
- Approximately 211 community newspapers in counties with a significant number of putative Class Members

Newspaper Supplement

- *American Profile*

Consumer Magazine

- *Jet*

Farming/Ranching Trade Publications

- Approximately 20 farming and ranching trade publications in regions with significant numbers of putative Class Members as well as selected national trade publications

BROADCAST

Radio

- National radio networks whose programming is targeted primarily to African Americans
- Local radio stations with high African American listenership in markets with high concentrations of putative Class Members
- State/regional agriculture radio networks in markets where both a high number of putative Class Members reside and in which agriculture is a significant industry

ONLINE

Internet Banner Ads (on websites focused on African American community and issues)

- theGrio.com

In re Black Farmers Discrimination Litigation

- AOL Black Voices
- Interactive One Network

Keyword Search

- Google
- Yahoo!
- Bing

PAID MEDIA PLACEMENTS

PAID MEDIA PLACEMENTS: **TARGET AUDIENCE**

Given the lack of available, reliable, subscription-based consumer data about the media habits of African Americans who work in agriculture, KM conducted additional research in order to identify those habits and choose media placements accordingly. Based on research in the 2002 and 2007 Census of Agriculture, as well as information obtained from Plaintiffs' Counsel (including information they obtained from feedback from putative Class Members) and organizations that routinely interact with or provide services to African American farmers, KM determined that farmers affected by this case in general:

- Are overwhelmingly male;
- Have an average age of over 60; and
- Live and work primarily in the southern and southeastern U.S. (Specifically, according to data from the *Pigford* Facilitator, the top ten states in which putative Class Members reside are, in descending order: Mississippi, Alabama, South Carolina, North Carolina, Tennessee, Georgia, Illinois, Louisiana, Oklahoma, and Florida.).

In addition, KM analyzed subscription-based consumer data from GfK MRI² – a resource widely used in the advertising industry – about the media habits of Class Members. KM initially researched the demographics of African Americans working in agriculture, but due to the relatively small size of that statistical group, the data was not stable and is therefore not reliable for purposes of identifying a target audience and measuring media penetration against it. Instead, KM researched the media habits of two broader demographics: African Americans generally, and people who work in agriculture generally. Based on that analysis, KM reached the following conclusions based on the data:

- Radio is likely to be an effective way to reach many potential Class Members and their heirs; and
- TV does not provide a cost-effective method to reach potential Class Members and their heirs.

KM used the information obtained from all the above sources to select media placements most likely to reach Class Members.

² KM analyzed syndicated data available from GfK Mediamark Research & Intelligence ("GfK MRI"). GfK MRI, formerly known as MRI, is a nationally accredited media and marketing research firm that provides syndicated data on audience size, composition, and other relevant factors pertaining to major media including broadcast, magazines, newspapers, and outdoor advertising. GfK MRI surveys a large sample of U.S. adults about the media they see and hear and about the products they use. Participants in the survey are identified by age, race, occupation, income, education, and by where they live, among other things. They are asked what magazines and newspapers they read, what TV shows and cable channels they watch, and are asked questions about Internet access and radio formats. In addition, respondents indicate the consumer products and brands they use from among 500 categories and 6000 consumer brands. The data from this survey is used by media practitioners industry-wide to characterize media and product users by demographics and to account for and compare the size and make-up of media audiences.

**PAID MEDIA PLACEMENTS:
MEDIA WEIGHT**

KM received detailed data about putative Class Members from Plaintiffs' Counsel and the *Pigford* Facilitator, including city and county locations along with undeliverable mail statistics by county. (KM did not receive any data that personally identified individual putative Class Members or included any other personal information.) KM sorted and analyzed this data in order to design the paid media program.

Putative Class Members in this case are distributed among hundreds of counties, primarily in the southern and southeastern U.S. KM's research indicated that local media, particularly radio and newspapers, presented the best opportunities to reach Class Members. However, it is not cost-effective or advisable from an advertising perspective to place paid media in every county in which putative Class Members reside, especially those with small numbers of putative Class Members. Conversely, some counties contain a significant share of the putative Class and should be targeted more heavily. KM categorized regions in order to determine the relative weight of media placements.

U.S. counties are grouped into 210 Designated Market Areas (DMAs).³ DMAs are non-overlapping (a particular area is in only one DMA). KM sorted putative Class Member data provided by Plaintiffs' Counsel and the Administrator into DMAs in order to help determine media placements.

The following chart summarizes how media will be distributed among the DMAs in which putative Class Members reside:

NATIONAL AND REGIONAL MEDIA		
SUMMARY	MEDIA ELEMENTS	MARKET
National and regional media will reach Class Members including heirs not only in key markets but in markets across the U.S.	• Network radio • Agricultural radio (across South and Midwest) • Newspaper supplement, <i>American Profile</i> (one time) • Consumer magazine, <i>Jet</i> (one time) • Internet	National South and Midwest (for agricultural radio)

³ A DMA is a group of counties that form an exclusive geographic area in which the home market television stations hold a dominant share of total hours viewed. "DMA" is a trademark of The Nielsen Company and is used for planning, buying, and evaluating media audiences across various markets.

PRIMARY MARKETS		
SUMMARY	MEDIA ELEMENTS	MARKET/DMA
These markets contain approximately 81% of putative Class Members.	• Highest circulating Sunday newspaper in the DMA (one time) • Local radio – targeted to African Americans • African American newspapers where available (two times) • General market community newspapers (one or two time(s), depending on concentration of putative Class Members and coverage of market) • Additional coverage will be provided by national print, radio, and Internet elements (outlined above)	Albany, GA Atlanta, GA Birmingham (Tuscaloosa), AL Charlotte, NC Chicago, IL Columbia, SC Columbus-Tupelo, MS Columbus, GA Dothan, AL Greenville-New Bern, NC Hattiesburg-Laurel, MS Huntsville-Decatur, AL Jackson, MS Little Rock-Pine Bluff, AR Los Angeles, CA ⁴ Memphis, TN Meridian, MS Mobile-Pensacola, AL/FL Montgomery-Selma, AL Myrtle Beach-Florence, SC New Orleans, LA New York, NY Oklahoma City, OK Raleigh-Durham, NC
SECONDARY MARKETS		
SUMMARY	MEDIA ELEMENTS	MARKET/DMA
These markets contain approximately 13% of putative Class Members.	• African American newspapers where available (two times) • General market community newspapers (up to one time in communities within a DMA where significant Class Members may reside) unless the market has	Baton Rouge, LA Beaumont-Port Arthur, TX Biloxi-Gulfport, MS Charleston, SC Cleveland-Akron, OH Dallas-Ft. Worth, TX Detroit, MI Flint-Saginaw, MI Greensboro-High Point, NC

⁴ While the Los Angeles and New York markets have substantial numbers of putative Class Members, due to the large population and varying demographics in each market, general market daily newspapers do not provide a cost-effective, properly targeted notice vehicle in these areas. Therefore, media levels and spending will be adjusted to ensure that media is more focused to the African American population and not widely dispersed to the entire metropolitan area.

	multiple African American newspapers, in which cases general market community newspapers are not used • Additional coverage will be provided by national print, radio, and Internet elements (outlined above)	Greenwood-Greenville, MS Houston, TX Jacksonville, FL Lafayette, LA Macon, GA Miami-Ft. Lauderdale, FL Milwaukee, WI Monroe-El Dorado, LA Philadelphia, PA San Francisco-Oakland, CA Savannah, GA Sherman-Ada, OK/TX St Louis, MO Tallahassee-Thomasville, FL Tampa-St. Petersburg, FL Tulsa, OK Washington, DC Wilmington, NC
NON-TARGETED MARKETS		
SUMMARY	MEDIA ELEMENTS	MARKET/DMA
These markets contain approximately 6% of putative Class Members. Each market contains fewer than 200 putative Class Members.	• Some coverage will be provided by national print, radio, and Internet elements (outlined above)	Remaining 159 DMAs

MEDIA PLACEMENTS: **NEWSPAPERS**

Newspapers serve as a widely read, timely, and credible information source that allow for geographic targeting of notice. Insertions in daily, African American focused, and community newspapers in this case will provide a portion of the Class with additional opportunities to see the Publication Notice. These insertions will include:

- A quarter-page ad (approximately 5.75" x 10.5") one time in the Sunday edition of the highest circulating 50 daily newspapers in each Primary Market. (Exceptions include New York and Los Angeles, where placing the ad in the highest circulation paper in the region is unlikely to provide significant reach of the target audience and is not cost-effective. In those areas, radio and African American focused newspapers are the primary media vehicles.)
- A quarter-page ad (approximately 5.75" x 10.5") two times in approximately 161 African American-focused newspapers in Primary and Secondary Markets.
- A quarter-page ad (approximately 5.75" x 10.5") one or two time(s) in approximately 211 community newspapers in selected counties (based on Class Member address data) in Primary and Secondary Markets.

In communities with particularly high concentrations of putative Class Members, both an African American focused newspaper and a general market community paper may be used. Otherwise, if one is available, an African American focused newspaper will be used, and broader community newspapers may be used where available to supplement African American newspapers in counties where 50 or more putative Class Members reside.

A list of these newspapers, sorted by DMA, is attached as NP Appendix 1.

PAID MEDIA PLACEMENTS:
RADIO

NATIONAL NETWORK RADIO – GENERAL INTEREST

National radio is bought in the form of network programming and buys can therefore be tailored for a specific group of people based on the typical listeners to a network. For this Notice Program, network radio is being purchased primarily to reach African Americans. National radio is an effective way to gain additional reach and frequency of the target audience.

The following radio networks will be considered at time of placement to provide the most cost-efficient and effective national radio program to reach African Americans. These radio networks reach nearly every market where identified putative Class Members live and provide additional coverage in markets across the U.S. that have significant African American populations. This provides opportunities to further distribute the message to those Class Members who cannot be located.



American Urban Radio Networks (AURN) is the only African American-owned network radio company in the country. Privately held for over 35 years, it is the largest network reaching Urban America. AURN reaches an estimated 20 million listeners each week. Programming across the networks includes programming such as: “Russ Par Weekend Show,” “Bobby Jones Gospel Countdown,” “The Bev Smith Show,” and “Dr. Ian Smith,” among others. KM does not recommend running ads on the entire AURN network; rather, placements on the following sub-networks are planned:



Sheridan Gospel Network is the nation’s first African American-owned and operated 24-hour nationally syndicated inspirational music format targeted to African American adults ages 25-54.⁵ Sheridan Gospel Network delivers the nation’s best mix of traditional and contemporary inspirational music.

⁵ This age group is important for reaching heirs of Class Members.



The American Urban Renaissance Network consists of over 200 stations with formats ranging from urban adult contemporary, oldies, news, and inspirational. The Network also delivers an estimated 11 million listeners weekly through news, sports, information, and lifestyle programming designed to meet the needs of the African American community.



The American Urban Pinnacle Network consists of more than 215 stations airing on various formats ranging from urban mainstream, adult contemporary, oldies, news, and inspirational. The network airs on such top ranked urban stations as: WRKS-FM, New York; WBLS/WLIB-New York; KDAY-FM, Los Angeles; WVAZ/WGCI, Chicago; and WDAS-FM, Philadelphia.



Radio One, Inc. is one of the nation's largest radio broadcasting companies and the largest radio broadcasting company that targets primarily African American and urban listeners. Radio One owns and/or operates 54 radio stations located in 17 urban markets in the U.S. Radio One owns and broadcasts "The Tom Joyner Morning Show" as well as many others.

LOCAL RADIO - GENERAL INTEREST PROGRAMMING

Local radio will also be used to supplement the national buy to target the Primary DMAs with the highest concentrations of putative Class Members (900 or more). Radio is able to provide a higher message frequency than other media, such as print, and will provide Class Members with opportunities to hear information regarding the Settlement on multiple stations within the market as they listen to various formats of interest.

Stations that appeal to a predominantly African American audience will be used in each market. These formats may include (but are not limited to):

- **Black Gospel:** Upbeat religious music typically heard in predominately black churches, with some preaching and instructional programming.
- **Southern Gospel:** Country and soft-rock-based religious music, with some preaching and instructional programming.

- **Urban Contemporary:** Listed simply as "urban" and also known as R&B (rhythm and blues), the urban contemporary musical genre reflects a large number of black recording artists with music such as rap, hip-hop, house, soul, and new artists.
- **Urban Adult Contemporary:** Urban adult contemporary stations are aimed at an older audience. Playlists of these stations are more soul and ballads and less rap and hip-hop music.
- **Urban Oldies:** This genre features Motown hits and black recording artists from the 50s, 60s, and 70s.
- **Rhythmic Adult Contemporary:** Rhythmic adult contemporary radio stations target adults with a rhythmic mix of dance, pop, R&B, old school, and classic disco tracks.
- **Urban Talk:** Urban talk radio stations focus on discussion about topical issues of interest in the African American community by broadcasting live conversations between the host and listeners who call in to the show.

A list of the stations included in the AURN Networks, the Radio One Network and local radio buys is attached as NP Appendix 2.

REGIONAL NETWORK RADIO – AGRICULTURE

The following farm radio networks, as available, will deliver the message directly to the farming community. Spots will be targeted to states and/or individual markets with high concentrations of putative Class Members and in which agriculture is a significant industry.



Southern Farm Network is the leading farm radio network in the Carolinas. It is distributed among 21 affiliates in both North and South Carolina and is the main source of farming news within the states.



Southeast AgNet is the only agricultural radio network covering Florida, Georgia, and Alabama, with 58 affiliates across the three states.



AgWatch Network blankets Arkansas and provides additional coverage in Kentucky, Western Tennessee, and Southern Missouri.



Louisiana Farm Bureau Radio Network is the number one radio network in Louisiana overall and for cattle coverage.

Mississippi Agri-News Network

Mississippi AgriNews Network is the leading Ag Network in the state and covers all commodities.



Radio Oklahoma Network is the only in-state radio network and is the leading agriculture network in the state, with coverage throughout the state particularly of cattle, cotton, and wheat topics.



The *Texas Farm Bureau Radio Network* is the network for the largest farm organization in Texas, providing the most full-day agriculture programming and the most remote broadcasts in the state.

PAID MEDIA PLACEMENTS:
FARMING/RANCHING TRADE PUBLICATIONS

An important component of the Notice Program is advertising in farming trade publications that are likely to be read by Class Members. While the reach of these publications is not measured, they are targeted directly to the target audience and often have a high pass-along rate.

In order to select the trade publications most appropriate for the Class in this case, KM identified farming and ranching publications primarily targeted to the southern and southeastern U.S. (where the majority of putative Class Members are located), with special attention to state-specific publications that are most likely to reach Class Members based on geography. KM also selected publications targeted to the sub-industries in which African Americans were most likely to be employed, based on 2007 Census of Agriculture data.

KM recommends the following 20 farming trade publication placements:



- A full-page ad (7" x 9.875") one time in *American Cattlemen* with an estimated circulation of 14,725.
- *American Cattlemen* contains information and equipment for successful cattle operation. Editorial focus of *American Cattlemen* is on national issues and events that shape and impact producers along with helpful "how to" articles and reviews designed to help American cattlemen make informed buying decisions when it comes to products and equipment. *American Cattlemen* is distributed in the top 25 cattle producing states and also publishes their magazine online monthly.



- A full-page ad (9.25" x 12.25") one time in *Carolina-Virginia Farmer* with an estimated circulation of 20,903.
- *Carolina-Virginia Farmer* is published monthly by the *Farm Progress* group. Issues feature locally written articles supplemented by regional and national content edited to be useful for

producers of tobacco, cotton corn, hogs, beef, and greenhouse/nursery in North Carolina, South Carolina, Virginia, and West Virginia. Its editors emphasize coverage of production, management, marketing, public policy, and rural lifestyles.



- *The Cattle Connection* is a group of 25 individually edited magazines each serving cattlemen in a single state. Content is primarily local news and information, focusing on people, special events (meetings, cattle shows, and sales), legislation, and management information including animal health, nutrition, breeding, feeding, grazing practices, and hay production.
- KM selected the following state editions of *The Cattle Connection*:
 - A full-page ad (7.25" x 10") one time in *Alabama Cattleman* with an estimated circulation of 12,500.
 - A full-page ad (7.25" x 10") one time in *Arkansas Cattle Business* with an estimated circulation of 9,200.
 - A full-page ad (7.25" x 10") one time in *Carolina Connection* with an estimated circulation of 6,000.
 - A full-page ad (7.25" x 10") one time in *Florida Cattleman* with an estimated circulation of 4,800.
 - A full-page ad (7.25" x 10") one time in *Georgia Cattleman* with an estimated circulation of 5,500.
 - A full-page ad (7.25" x 10") one time in *Louisiana Cattleman* with an estimated circulation of 4,000.
 - A full-page ad (7.25" x 10") one time in *Mississippi Cattle Business* with an estimated circulation of 4,000.
 - A full-page ad (7.25" x 10") one time in *Oklahoma Cowman* with an estimated circulation of 4,874.
 - A full-page ad (7.25" x 10") one time in *Virginia Cattleman* with an estimated circulation of 8,500.



- A full-page ad (7" x 10") one time in *The Cattleman Magazine* with an estimated circulation of 16,615.
- *The Cattleman Magazine* is a monthly business publication for producers of beef cattle, dedicated to providing articles that help ranchers make sound, informed business decisions. Articles explain how to manage cattle and land to save time, reduce labor, cut costs, and improve profits. Major attention is given to animal health, Beef Quality Assurance, and management of range and pasture. News sections focus on trends, legislation, and technology issues that impact the way ranchers do business.



- A full-page ad (7" x 10") one time in *Cotton Farming* with an estimated circulation of 28,500.
- *Cotton Farming* is published monthly and edited regionally for commercial cotton growers across the U.S. Cotton Belt. Staff-written articles discuss profitable cotton farming, outline better business methods, and analyze successful grower operations. Subjects include advances in equipment, chemicals and techniques used in production, marketing, and farm policy. *Cotton Farming* provides profitable production and business strategies, as well as market and industry information to cotton producers. The magazine is distributed in Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia.



- A full-page ad (9.5" x 13.5") one time in *The Farmer-Stockman* with an estimated circulation of 25,008.
- *The Farmer-Stockman* is published monthly by the *Farm Progress* group. Issues feature locally written articles supplemented by regional and national content edited to be useful for producers of beef, wheat, milk, cotton, peanuts, and hogs in Oklahoma, Texas, and New Mexico. Its

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editors emphasize coverage of production, management, marketing, public policy, and rural lifestyles.



- *Farm Progress* is comprised of 18 local/regional farming publications that serve commercial farmers and ranchers across the nation. Each issue features locally written articles supplemented by regional and national content. Its editors emphasize coverage of production, management, marketing, public policy, and rural lifestyles. Specifically KM selected the following state/regional editions: *Mid-South Farmer*, *Carolina-Virginia Farmer*, *Southern Farmer*, and *The Farmer-Stockman*.



- A full-page ad (7.375" x 9.625") one time in *Growing* with an estimated circulation of 22,020.
- *Growing* covers all segments of the fruit, nut and vegetable production industry, including operations, new products, and food safety. *Growing* is published monthly and distributed across the U.S.



- A full-page ad (9.25" x 12.25") one time in *Mid-South Farmer* with an estimated circulation of 21,145.
- *Mid-South Farmer* is published monthly by the *Farm Progress* group. Issues feature locally written articles supplemented by regional and national content edited to be useful for producers of cotton, soybeans, corn, wheat, cattle, rice, and calves in the sections of Arkansas, Louisiana, Mississippi, western Tennessee, and Missouri boot heel. Its editors emphasize coverage of production, management, marketing, public policy, and rural lifestyles.

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- A full-page ad (7" x 10") one time in *The Peanut Grower* with an estimated circulation of 10,333.
- The Peanut Grower is edited for U.S. peanut farmers and is published eight times a year. The Peanut Grower delivers profitable production and marketing strategies to peanut producers. It provides farmers with a single source of information and news on all aspects of the peanut farming business. Features cover peanut production practices, new research, money-making marketing strategies, farm chemicals, legislation, crop outlook, and industry news. Production-related features and departments cover such topics as new pesticides; insect, weed, and disease control; rotational and planting practices; new equipment; and peanut research. The magazine is distributed in Alabama, Florida, Georgia, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Virginia.



- A full-page ad (7" x 10") one time in the Southern Edition of *The Progressive Farmer* with an estimated circulation of 305,000.
- *The Progressive Farmer*, the nation's largest farming publication, is dedicated to helping farmers grow their business by providing beneficial, useful information to help them make money and save money. Editorial content includes articles on crop and livestock production to estate and tax planning to land ownership issues. The Southern edition is distributed in Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia. The magazine is published 11 times a year.



- A full-page ad (9.5" x 13.5") one time in *Southern Farmer* with an estimated circulation of 20,770.

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- *Southern Farmer* is published monthly by the *Farm Progress* group. Issues feature locally written articles supplemented by regional and national content edited to be useful for producers of cotton, peanuts, tobacco, wheat, cattle, and calves in Georgia, Alabama, Florida, Kentucky, and eastern Tennessee. Its editors emphasize coverage of production, management, marketing, public policy, and rural lifestyles.



- A full-page ad (9.8125" x 10.5") one time in *Texas Agriculture* with an estimated circulation of 81,965.
- *Texas Agriculture* is published monthly for members of the Texas Farm Bureau who have identified income in one or more agricultural commodities. Editorial content is directed to guide the producer-members to a greater net farm income by covering those issues which directly affect business, including farm policy, regulations, legislation, new research, and production ideas.

PAID MEDIA PLACEMENTS:
NEWSPAPER SUPPLEMENT

American Profile, a publication known as a newspaper supplement (other examples include *Parade* and *USA Weekend*), is inserted into weekend or Sunday editions of 1,316 newspapers, reaching primarily mid-size to smaller media markets across the country. This magazine, printed on newsprint, contains articles written for broad, general appeal and encourage readership through brevity. Issues are typically fewer than 30 pages. For this Notice Program, KM recommends a newspaper supplement because of its cost-effective reach capability.

KM recommends the following newspaper supplement placement:



- A half-page ad (4.1875" x 9.25") one time in *American Profile* with an estimated circulation of 10,250,000.
- *American Profile* is currently carried in 1,316 weekly and daily newspapers that are published primarily in rural counties nationwide. Editorial content is designed to appeal to small-town Americans and their interests and activities.
- 62% of *American Profile* readers are found in C/D counties⁶, providing increased opportunity to provide notice to those Class Members who live in rural areas as well as those who work in agriculture.
- A list and locations of the newspapers that carry *American Profile* is attached as NP Appendix 3.

⁶ "A Counties", as defined by A.C. Nielsen Company ("Nielsen"), are all counties belonging to the 25 largest metropolitan areas. These metro areas correspond to the Metropolitan Statistical Area ("MSA") and include the largest cities and consolidated areas in the U.S. "B Counties", as defined by Nielsen, are all counties not included under A that are either over 150,000 population or in a metro area over 150,000 population according to the latest census. "C Counties", as defined by Nielsen, are all counties not included under A or B that either have over 40,000 population or are in a metropolitan area of over 40,000 population according to the latest census. "D Counties" are, essentially, rural counties in the Nielsen classification system of A, B, C, and D counties.

PAID MEDIA PLACEMENTS:
CONSUMER MAGAZINE

Most adults read one or more magazines during an average month and nearly three out of five adults read or look at a magazine daily. Heavy readers read 16 or more magazines per month. Weekly magazines quickly accumulate readership and provide timely and efficient notice to readers. KM chose the consumer magazine *Jet* because it is among the highest ranking in coverage of African American adults. Within the Notice Program, *Jet* is primarily intended to reach heirs.

KM recommends:



- A full-page spread ad (9.75" x 6.875") one time in *Jet* with an estimated circulation of 900,000.
- *Jet* is published monthly and is the leading newsweekly for the African-American community, covering national and global news with the goal of being the most reliable and credible go-to-source offering a unique Black perspective on the latest news and entertainment.

PAID MEDIA PLACEMENTS: **INTERNET ADVERTISING**

KM recommends incorporating Internet advertising into the Notice Program in order to provide potential Class Members with additional national notice opportunities beyond the comprehensive print and radio program. Internet advertising delivers an immediate message and allows the viewer of an advertisement to instantly link to a website for further information. While many putative Class Members are not likely to be heavy Internet users, the medium can provide cost-efficient opportunities to those unidentified Class Members who do use the Internet as an information and entertainment source.

WEBSITE ADVERTISING

KM recommends placing ads on websites that are specifically targeted to the interests of Class Members, both African American interest websites as well as editorially focused farming websites, enabling maximum exposure opportunities to reach the diverse interests of the Class. (Delivery of Internet impressions to specific sites and categories within sites are subject to availability at the time of the media buy.)

Banner ads will appear on the following websites:



TheGrio.com is the first video-centric news community site devoted to providing African Americans with stories and perspectives that appeal to them and are underrepresented in existing national news outlets. TheGrio.com features original and aggregated video packages, news articles, slideshows, and commentary.



BlackVoices has 4.3 million visitors to the site each month, making it the top destination for African Americans online. The site offers users a robust and comprehensive look at the issues of the African American community through insightful editorial. Users come to BlackVoices for the latest Entertainment and News stories, cultural voices and opinions, and varied social networking experiences.



Interactive One was founded to connect, inform, entertain, and inspire the entire Black community by providing online products, programming, and services. Interactive One created a series of vertical websites that cover news, entertainment, lifestyle and faith. Online properties in the Interactive One Network include BlackPlanet.com, HelloBeautiful.com, NewsOne.com, TheUrbanDaily.com, and GIANTLife.com.

KEYWORD SEARCH ADS

Search engines are among the Internet's most frequently used sites. In order to help search engine users locate the informational website about this case – both those specifically looking for it and those looking for related topics – KM will purchase sponsored links to appear when searchers enter certain terms.

KM will contract with Google AdWords, Yahoo! Search Marketing and Bing Microsoft Advertising to have sponsored links appear on the results page of keyword/phrase searches that could include:

- Pigford
- Pigford v. Glickman
- Pigford case
- Pigford notice
- Black farmers
- Black farmers lawsuit
- Black farmers case
- Black farmers settlement
- African American farmers lawsuit
- African American farmers case
- African American farmers settlement
- African American farm loans
- Black farmers farm loans

The following is a sample screen shot that details the current results provided on Google's search engine when a visitor enters the phrase "black farmers settlement" as a search term:

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Google [Advanced Search](#)

Web [Show options...](#) Results 1 - 10 of about 225,000 for **black farmers settlement**. (0.24 seconds)

Cash For Your Settlement
www.SenecaOneCash.com/Settlements — We Buy Structured Settlements — Get Your **Settlement \$** Today!

Black Farmers Settlement
[Ask.com](#) Search for **Black Farmers Settlement** Find **Black farmers settlement**

U.S. approves settlement for black farmers - washingtonpost.com
 The Obama administration announced a \$1.25 billion **settlement** Thursday to resolve charges by thousands of **black farmers** who say that for decades the ...
www.washingtonpost.com/wp-dyn/content/.../AR2010021805893.html

Black Farmer Claims
 If you or a family member is an African-American farmer who tried to participate in the "**Black Farmer Settlement**", but had the claim denied due to its being ...
www.blackfarmerclaims.com/ - [Cached](#) - [Similar](#)

Black farmers settlement is "win for all family farmers ...
 Feb 23, 2010 ... Willie Adams, a **Black farmer** in Greene County, Ga., hailed President Obama's \$1.25 billion proposed **settlement** of a lawsuit by **Black farmers** ...
www.peoplesworld.org/black-farmers-settlement-is-win-for-all-family-farmers/ - [Cached](#)

News results for black farmers settlement



Black farmers still waiting for settlement cash - 3 days ago
 The missed deadline does not end the **settlement** but does allow the farmers to reopen the class action lawsuit. "The **black farmers** are not willing to engage ...
[USA Today](#) - [34 related articles »](#)
[Minority farmer groups seek compensation for USDA discrimination](#) -
[The Hill](#) - [3 related articles »](#)
[Congress misses deadline for payments to black farmers](#) -
[Washington Post](#) - [5 related articles »](#)

Black Farmers Settlement Forgotten By Congress
 Mar 31, 2010 ... A month ago, the federal government promised it would pay more than \$1 billion by the end of March to thousands of **black farmers** who ...
www.huffingtonpost.com/.../black-farmers-settlement-_n_520110.html - [Cached](#)

Black farmers' settlement at risk as plaintiffs await funding approval
 Mar 26, 2010 ... WASHINGTON — A \$1.25 billion **settlement** between **black farmers** and the Agriculture Department is at risk of unraveling after Congress ...
blog.taragana.com/.../black-farmers-settlement-at-risk-as-plaintiffs-await-funding-approval-21067/ - [Cached](#)

Sponsored Links

Accident or Injury Claim?
 Free online injury claim evaluation
 It's fast & it's free!
www.personal-injury-attorneys.us
 Minnesota
[See your ad here »](#)

After KM contracts with Google AdWords, Yahoo! Search Marketing and Bing Microsoft Advertising for sponsored links of the relevant and available keyword/phrases, a visitor entering an applicable keyword/phrase will see the following (or substantially similar) sample ad listed in the right-hand column under the Sponsored Links section:

Black Farmer Settlement

Proposed settlement of a class action may affect black farmers and their heirs.

<http://www.BlackFarmerCase.com>

NOTICE DESIGN

NOTICE DESIGN:
POSTCARD NOTICE

The plain language Postcard Notice (NP Appendix 4) is designed to alert Class Members to the Settlement by using a bold headline. Plain language text provides important information regarding the subject of the litigation, the Class definition, and the legal rights available to Class Members. The Postcard Notice includes all the substantive information required by Rule 23.

Each postcard will prominently feature a toll-free number and website address for Class Members to obtain the Long Form Notice and other information.

NOTICE DESIGN:
LONG FORM NOTICE

The Long Form Notice (NP Appendix 5) will be compliant with Rule 23 and consistent with the Federal Judicial Center’s “illustrative” class action notices. Specifically, the Notice will clearly and concisely state in plain, easily understood language:

- The nature of the action;
- The definition of the Class certified;
- The Class claims;
- That a Class Member may file a claim through an attorney other than Class Counsel if the member so desires; and
- The binding effect of a class judgment on members under Rule 23(c)(3).

The Long Form Notice will prominently feature a toll-free number and website address for Class Members to obtain more information and file a claim.

NOTICE DESIGN:
PUBLICATION NOTICE

Rule 23(c)(2) of the Federal Rules of Civil Procedure requires class action notices to be written in “plain, easily understood language.” KM applies the plain language requirement in drafting notices in federal and state class actions. The firm maintains a strong commitment to adhering to the plain language requirement, while drawing on its experience and expertise to draft notices that effectively convey the necessary information to Class Members.

The plain language Publication Notice (NP Appendix 6) is designed to alert Class Members to the litigation by using a bold headline. This headline will enable Class Members to quickly determine if they are potentially affected by the litigation. Plain language text provides important information regarding the subject of the litigation, the Class definition and the legal rights available to Class Members.

Each advertisement will prominently feature a toll-free number, website, and address for the Claims Administrator so that Class Members may obtain the Long Form Notice and other information.

NOTICE DESIGN:
RADIO AD

The 60-second radio advertisement (NP Appendix 7) will be designed to appeal specifically to Class Members. The radio spot will quickly alert listeners to the subject matter of the litigation and will help listeners to determine whether they may be potential Class Members, as well as inform them that they can file claims. The radio ad will prominently feature the toll-free telephone number and website address for Class Members to obtain more information and a Claim Form.

NOTICE DESIGN: **WEBSITE AND INTERNET ADS**

An informational interactive website is a critical component of the Notice Program. A website is a constant information source instantly accessible to millions. The site will utilize the Internet's ability to serve as a key distribution channel and customer service bureau. Internet banner ads will help direct Class Members to the website.

WEBSITE DESIGN

Combining clean site design, consistent site navigation cues and search engine optimization, the website will provide Class Members with easy access to the details of the litigation.

- **CLEAN DESIGN:** The site will be designed for ease of navigation and comprehension, with user-friendly words and icons. A directory, located in a column on the left side of the page, will provide links to the website's content. These links may include "Court Documents," "Long Form Notice," and "Questions/Links." The website may also feature a "Frequently Asked Questions" section to answer commonly asked questions. It will also provide a toll-free number for individuals seeking additional information.
- **CONSISTENT NAVIGATION CUES:** Whenever a user goes from the homepage to another part of the site, links to the homepage and subsections remain on the left side of all pages, while the case title remains fixed at the top of each page.

INTERNET BANNER AD DESIGN

KM will design Internet banner advertisements to alert Class Members to the Proposed Settlement by using a bold headline. The headline will enable Class Members to quickly determine if they may be affected by the Settlement. When users click on the banner advertisement, they will be connected automatically to the informational website that contains complete information about their legal rights.

ADDITIONAL NOTICE PROGRAM COMPONENTS

EARNED MEDIA PROGRAM

Earned media provides additional notice to Class Members, amplifying the paid media program. Earned media, as opposed to paid media, occurs by disseminating a message about the Settlement to the media without a guarantee that it will appear. KM will distribute the message to media outlets (newspapers, websites, and television and radio stations) hoping to spark press interest and generate coverage.

The earned media outreach for this program will focus primarily on key daily newspapers, websites, wire services, national newspaper bureaus, and major television and radio outlets.

TRADITIONAL PRESS RELEASE

KM will distribute a press release on PR Newswire's US1 national wire, reaching approximately 5,815 print and broadcast outlets and 5,500 online media outlets. The press release will highlight the toll-free telephone number and Settlement website address so that Class Members can obtain complete information.

In addition, KM will distribute the press release to:

- PR Newswire's "National Black Media Newline – Opinion Leaders" wire, which reaches more than 800 Black opinion leaders, journalists, and community and social organizations nationwide.
- All daily and community newspapers in which KM places a Publication Notice for this case.
- All media outlets nationwide (as listed in the widely used subscription media outlet database to which KM subscribes) with "Black interest" and/or "Agriculture" as one of its Outlet Subjects – print, broadcast, and online. This distribution will be by email from a KM staffer.
- All broadcast media outlets (as listed in the widely used subscription media outlet database to which KM subscribes) in the top 20 DMAs in which putative Class Members reside. This distribution will be by email from a KM staffer.

ELECTRONIC OUTREACH

VIDEO B-ROLL PACKAGE

A B-roll package consists of all of the video content a television station would need to produce their own on-air news story such as interviews, B-roll (stock) footage, and details about the Settlement and how to file a claim. The video B-roll package will be produced after the final fairness hearing.

Once produced, the video B-roll package will be distributed to over 900 television stations nationwide. A network of trained bookers will personally pitch over 100 hand-selected television outlets with direct pitch calls to encourage them to use the B-roll story. In addition, a media advisory will be emailed to thousands of contacts, faxed to nearly 900 contacts covering the top 210 markets, delivered into newsroom computer terminals, released on a national press wire to 4,000 media contacts and 3,600 websites, and posted on an online press page at PR Newswire for Journalists, an exclusive journalist-only website that has over 90,000 members.

In addition to any voluntary news stories produced as a result of the B-roll package distribution, there is also a guaranteed placement element via NewsUpdate. NewsUpdate is syndicated via the ION network feed in a “mini-news magazine” format program that airs on 150 affiliates nationwide. These affiliates will air the B-roll package in its entirety, reaching an audience of three million viewers.

PUBLIC SERVICE ANNOUNCEMENT

KM will produce and distribute 30- and 60-second radio Public Service Announcements (PSAs) (NP Appendix 8) to radio stations in the DMAs most likely to contain Class Members.

MESSAGE DEVELOPMENT

All earned media outreach materials will be un-biased and informative, designed to provide potential Class Members with a basic overview of the Settlement and how they can obtain further information about their rights, including how to file a claim.

FOLLOW-UP

KM and PR Newswire will place follow-up calls to encourage media outlets to participate in notice efforts.

ADDITIONAL OUTREACH OPPORTUNITIES

To supplement the direct notice, paid media, and earned media in this case, KM will contact third parties whose memberships may include Class Members to encourage them to share information about the Settlement with their members. This outreach will reach some Class Members to remind them of the impending claims deadline during the claims-filing period.

KM's third-party outreach will include contacting:

- African-American churches
- Civil rights organizations
- Nonprofit organizations focused on African-American farmers
- Nonprofit organizations focused on farming and agriculture generally
- Farming trade associations
- Educational institutions

KM has contacted key outreach targets already, in advance of preliminary approval of the Settlement, in order to receive input about notice distribution to the organizations' members and to ascertain what materials are likely to be necessary. A layered outreach approach consisting of intensive telephone outreach to key organizations combined with a broader mailed outreach to the organizations listed above will extend the scope of the outreach efforts and help ensure the consistency of information being distributed.

All outreach materials will prominently feature a toll-free number and website address for Class Members to obtain the Long Form Notice and other information.

TELEPHONE OUTREACH

Beginning in January 2011, KM has conducted telephone outreach to contact dozens of key organizations and groups to attempt to secure their participation in the notice distribution process. Callers knowledgeable about the Notice Program are using neutral talking points about the Settlement and notice process that have been approved by Plaintiffs' Counsel. The main goal of the calls is to encourage these organizations to share Settlement details during the claims-filing period with their affiliates on the local level in areas with high concentrations of potential Class Members. Reinforcing the notice message through a variety of channels, and encouraging accurate "word of mouth" about the Settlement and claims-filing process will help support the robust Direct Notice and Paid Media components of this Notice Program.

The groups that will primarily receive telephone outreach calls are:

- National nonprofit organizations focused on African-American farmers;
- National civil rights organizations;
- National churches/religious institutions; and
- Key regional agricultural organizations.

MAILED OUTREACH

In addition to the intensive telephone outreach, KM has developed a database of over 6,000 potential outreach entities:

- 4,600 African-American churches (including the Baptist, AME, AMEZ, CME, and various other churches)
- 700 civil rights organizations (NAACP)
- 8 nonprofit organizations focused on African-American farmers
- 581 nonprofit organizations focused on farming and agriculture generally (including state and county farm bureaus and agricultural extension offices)
- 200 farming trade associations (including cooperatives and other organizations)
- 90 Historically Black Colleges and Universities (HBCUs)

Based on these lists provided by KM, the Administrator will send the outreach package to the entities on this list most likely to have contact with Class Members. The outreach package will provide basic information about the Settlement and will contain a:

- Cover letter requesting that the organization share Settlement details,
- Flyer suitable for posting in an office, and
- Summary suitable for use in a newsletter or posting on a website.

TOLL-FREE TELEPHONE SUPPORT

The Claims Administrator will establish a toll-free phone number to respond to inquiries about the Settlement as a result of Class Members seeing the media notice or receiving direct notice. The toll-free number will be prominently included in all media notices. In addition, the toll-free number will be included with any information sent to third party organizations asked to assist with outreach. The phone number will be used to answer any questions concerning the Settlement and the Notice Program. During regular business hours, the call center will be staffed by live operators to respond to calls from Class Members.

After hours, a toll-free interactive voice response system (IVR) will be established to service Class Members. Callers will also be able to request assistance with claims and to leave messages for follow-up calls.

NP APPENDIX 1:
NEWSPAPERS BY DESIGNATED MARKET
AREA (DMA)

NEWSPAPER DISTRIBUTION BY DESIGNATED MARKET AREA (DMA)**PRIMARY MARKETS**

Type of Newspaper	Publication Name	Circulation (if available)
Jackson, MS DMA		
Sunday	<i>Brookhaven Daily Leader</i>	6,445
Sunday	<i>Jackson Clarion-Ledger</i>	83,948
Sunday	<i>McComb Enterprise-Journal</i>	10,829
Sunday	<i>Natchez Democrat</i>	10,500
Sunday	<i>Vicksburg Post</i>	13,641
African American	<i>Jackson Advocate</i>	8,000
African American	<i>Mississippi Link</i>	16,404
Community	<i>Tylertown Times</i>	3,248
Community	<i>Prentiss Headlight</i>	2,267
Community	<i>Natchez Sun</i>	7,000
Community	<i>Northside Sun</i>	11,500
Community	<i>Lawrence County Press</i>	2,900
Community	<i>Fayette Chronicle</i>	1,700
Community	<i>Magnolia Gazette</i>	1,400
Community	<i>Magee Courier / Simpson County News</i>	6,600
Community	<i>Copiah County Courier</i>	6,000
Community	<i>Port Gibson Reveille</i>	2,293
Community	<i>Holmes County Herald</i>	2,800
Community	<i>Scott County Times</i>	5,600
Community	<i>Northeast Ledger</i>	13,050
Community	<i>Rankin Ledger</i>	47,606
Community	<i>Madison County Herald</i>	14,042
Community	<i>Belzoni Banner</i>	1,800
Community	<i>Yazoo Herald</i>	3,900
Memphis, TN DMA		
Sunday	<i>Jackson Sun</i>	36,463
Sunday	<i>Memphis Commercial Appeal</i>	177,483
African American	<i>Memphis Silver Star News</i>	28,000
African American	<i>Rolling Out Memphis</i>	41,080
African American	<i>Tri-State Defender</i>	26,000
Community	<i>Shelby Sun Times</i>	16,250
Community	<i>North Shelby Times</i>	50,000
Community	<i>East Shelby Review</i>	2,500
Community	<i>Fayette County Review</i>	5,110

Community	<i>Fayette Falcon</i>	3,850
Community	<i>Batesville Advantage</i>	5,992
Community	<i>The Panolian</i>	6,000
Community	<i>Sardis Southern Reporter</i>	2,300
Community	<i>Bulletin-Times</i>	4,238
Community	<i>Democrat Extra</i>	11,100
Community	<i>Desoto Times</i>	8,438
Community	<i>Desoto County Tribune</i>	19,747
Community	<i>Oxford Eagle</i>	6,000
Community	<i>Helena Daily World</i>	11,500
Community	<i>Covington Leader</i>	6,553
Community	<i>Southern Advocate</i>	1,500
Community	<i>Southern Sentinel</i>	4,000
Community	<i>Brownsville States-Graphic</i>	4,600
Community	<i>Evening Times</i>	7,385
Community	<i>Quitman County Democrat</i>	2,084
Community	<i>Forrest City Times-Herald</i>	4,500
Myrtle Beach, SC DMA		
Sunday	<i>Florence Morning News</i>	28,738
Sunday	<i>Myrtle Beach Sun News</i>	59,697
Sunday	<i>The Robesonian (Lumberton)</i>	16,029
African American	<i>Community Times</i>	35,000
African American	<i>Times Upstate</i>	22,000
Community	<i>Darlington News & Press</i>	6,200
Community	<i>Hartsville Messenger</i>	6,400
Community	<i>Florence Community Times</i>	35,877
Community	<i>Marlboro Herald Advocate</i>	6,800
Community	<i>Laurinburg Exchange</i>	9,189
Community	<i>Dillon Herald</i>	7,995
Community	<i>Marion County News Journal</i>	1,500
Community	<i>Horry Independent</i>	6,541
Community	<i>Loris Scene</i>	2,000
Montgomery, AL DMA		
Sunday	<i>Montgomery Advertiser</i>	47,059
Sunday	<i>Selma Times-Journal</i>	8,363
African American	<i>Montgomery-Tuskegee Times</i>	5,000
Community	<i>Wilcox Progressive Era</i>	3,061
Community	<i>Maxwell-Gunter Dispatch</i>	12,500
Community	<i>News Record Montgomery</i>	43,312
Community	<i>Marion Times-Standard</i>	2,000
Community	<i>Troy Messenger</i>	4,000

Community	<i>Demopolis Times</i>	2,700
Community	<i>Union Springs Herald</i>	2,900
Community	<i>Lowndes Signal</i>	1,300
Community	<i>Prattville Progress</i>	8,200
Community	<i>Tuskegee News</i>	4,200
Community	<i>Tallassee Tribune</i>	4,054
Community	<i>Eclectic Observer</i>	1,100
Community	<i>Wetumpka Herald</i>	4,437
Community	<i>Andalusia Star News</i>	3,296
Hattiesburg, MS DMA		
Sunday	<i>Hattiesburg American</i>	19,748
Sunday	<i>Laurel Leader-Call</i>	7,200
Community	<i>Columbian-Progress</i>	5,500
Community	<i>News-Commercial</i>	3,711
Community	<i>Lamar Times</i>	4,800
Community	<i>Petal News</i>	2,800
Community	<i>Jasper County News</i>	2,807
Community	<i>Richton Dispatch</i>	1,796
Community	<i>Wayne County News</i>	4,600
Charlotte, NC DMA		
Sunday	<i>Charlotte Observer</i>	231,231
Sunday	<i>Richmond County Daily Journal</i>	8,058
African American	<i>Charlotte Post</i>	23,000
African American	<i>Rolling Out Charlotte</i>	52,560
African American	<i>Savoir Faire News</i>	30,000
Community	<i>Cheraw Chronicle</i>	6,950
Community	<i>Pageland Progressive- Journal</i>	4,271
Community	<i>Anson Record</i>	6,562
Birmingham, AL DMA		
Sunday	<i>Birmingham News</i>	164,405
Sunday	<i>Tuscaloosa News</i>	34,493
African American	<i>Birmingham Times</i>	16,500
African American	<i>Rolling Out Birmingham</i>	44,380
African American	<i>The Green County Democrat</i>	3,650
Community	<i>Greensboro Watchman</i>	2,670
Community	<i>Northport Gazette</i>	4,400
Community	<i>Western Star</i>	10,200
Community	<i>Chilton County News</i>	2,000
Community	<i>Clanton Advertiser</i>	4,100
Community	<i>Clanton Extra</i>	8,050
Community	<i>Centreville Press</i>	4,200

Community	<i>St. Clair Times</i>	36,718
Chicago, IL DMA		
Sunday	<i>Chicago Sun-Times</i>	255,144
Sunday	<i>Merrillville Post-Tribune (IN)</i>	60,101
Sunday	<i>Aurora Beacon-News</i>	28,092
Sunday	<i>Joliet Herald-News</i>	41,461
Sunday	<i>Elgin Courier-News</i>	11,896
Sunday	<i>Naperville Sun</i>	15,239
Sunday	<i>Lake County News-Sun</i>	18,130
Sunday	<i>The Southtown Star</i>	56,111
African American	<i>Austin Voice</i>	16,000
African American	<i>Garfield/Lawndale Voice</i>	16,000
African American	<i>Chicago Citizen Weekend</i>	23,150
African American	<i>South Suburban Citizen</i>	21,425
African American	<i>South End Citizen</i>	27,850
African American	<i>Chatham Citizen</i>	29,280
African American	<i>Hyde Park Citizen</i>	21,550
African American	<i>Chicago Defender</i>	50,000
African American	<i>Chicago Independent Bulletin</i>	65,000
African American	<i>Chicago Standard News</i>	16,000
African American	<i>South Suburban Standard</i>	15,250
African American	<i>Hyde Park Herald</i>	28,000
African American	<i>N'digo</i>	149,991
African American	<i>The North Lawndale Community News</i>	15,000
African American	<i>Rolling Out Chicago</i>	79,968
African American	<i>The People's Voice</i>	12,000
African American	<i>Times Weekly</i>	28,000
African American	<i>Windy City Word</i>	20,000
Columbus, MS DMA		
Sunday	<i>Columbus Commercial Dispatch</i>	14,081
Sunday	<i>Northeast Mississippi Daily Journal</i>	35,635
Sunday	<i>Starkville Daily News</i>	7,467
Community	<i>Columbus Packet</i>	7,500
Community	<i>Starkville Crossroads</i>	9,950
Community	<i>West Point Times-Leader</i>	4,000
Community	<i>Winston County Journal</i>	3,200
Community	<i>Monroe County Journal</i>	7,315
Community	<i>North Mississippi Herald</i>	2,900
Community	<i>Chickasaw Journal & Times-Post</i>	12,482
Oklahoma City, OK DMA		
Sunday	<i>Oklahoma City Oklahoman</i>	216,000

African American	<i>Black Chronicle</i>	31,088
Community	<i>The Sun</i>	3,300
Community	<i>Capitol Hill Beacon</i>	46,400
Community	<i>Oklahoma City Friday</i>	8,282
Community	<i>Countywide & Sun</i>	1,965
Meridian, MS DMA		
Sunday	<i>Meridian Star</i>	15,131
Community	<i>Sumter County Record-Journal</i>	5,125
Community	<i>Kemper County Messenger</i>	2,050
Community	<i>Neshoba Democrat</i>	7,496
Community	<i>Clarke County Tribune</i>	3,100
Community	<i>Choctaw Sun-Advocate</i>	5,100
Community	<i>Newton Record</i>	3,300
Columbus, GA DMA		
Sunday	<i>Columbus Ledger-Enquirer</i>	39,841
African American	<i>Columbus Times</i>	10,240
Community	<i>Clayton Record</i>	2,500
Community	<i>Eufaula Tribune</i>	5,500
Community	<i>River Rambler</i>	6,750
Community	<i>East Alabama News</i>	21,493
Community	<i>Opelika-Auburn News</i>	16,241
Huntsville, AL DMA		
Sunday	<i>Decatur Daily</i>	23,547
Sunday	<i>Florence Times Daily</i>	28,416
Sunday	<i>Huntsville Times</i>	67,670
African American	<i>Speakin' Out News</i>	25,700
Community	<i>Colbert County Reporter</i>	3,600
Community	<i>Madison County Record</i>	4,000
Community	<i>Hartselle Enquirer</i>	7,366
Community	<i>Florence Courier Journal</i>	67,464
Community	<i>East Lauderdale News</i>	4,500
Community	<i>Athens News-Courier</i>	7,639
Mobile, AL DMA		
Sunday	<i>Mobile Press-Register</i>	111,652
Sunday	<i>Pensacola News Journal</i>	60,040
African American	<i>Mobile Beacon</i>	7,000
African American	<i>New American Press</i>	34,985
African American	<i>Pensacola Times</i>	44,569
African American	<i>Pensacola Voice</i>	38,000
Community	<i>Citronelle Call News</i>	12,500
Community	<i>Clarke County Democrat</i>	4,500

Community	<i>Thomasville Times</i>	3,400
Community	<i>Evergreen Courant</i>	3,831
Community	<i>Monroe Journal</i>	7,900
Community	<i>Greene County Herald</i>	2,900
New Orleans, LA DMA		
Sunday	<i>New Orleans Times-Picayune</i>	189,682
African American	<i>Data News Weekly</i>	25,000
African American	<i>Louisiana Weekly</i>	6,500
African American	<i>New Orleans Tribune</i>	20,000
Community	<i>The Era-Leader</i>	4,200
Community	<i>Ponchatoula Times</i>	7,300
Community	<i>St. Tammany News</i>	35,000
Dothan, AL DMA		
Sunday	<i>Dothan Eagle</i>	35,040
Community	<i>Geneva County Reaper</i>	2,531
Community	<i>Abbeville Herald</i>	2,350
Community	<i>Southern Star</i>	4,500
Community	<i>Elba Clipper</i>	3,181
Community	<i>Enterprise Ledger</i>	10,000
Albany, GA DMA		
Sunday	<i>Albany Herald</i>	21,430
African American	<i>Albany Southwest Georgian</i>	16,000
African American	<i>South Georgia Journal</i>	89,200
Community	<i>Douglas Enterprise</i>	7,794
Community	<i>Atkinson County Citizen</i>	1,425
Community	<i>Ocilla Star</i>	2,200
Community	<i>Herald-Leader</i>	5,395
Columbia, SC DMA		
Sunday	<i>Sumter Item</i>	18,679
Sunday	<i>The State</i>	125,149
African American	<i>Black News</i>	50,000
African American	<i>Carolina Panorama</i>	15,000
Community	<i>Northeast News</i>	10,000
Community	<i>Manning Times</i>	4,000
Community	<i>Lee County Observer</i>	3,147
New York, NY DMA		
African American	<i>African American Observer</i>	69,000
African American	<i>Afro Times</i>	57,004
African American	<i>Black Star News</i>	30,000
African American	<i>The Community Journal</i>	10,000
African American	<i>The Culvert Chronicles</i>	60,000

African American	<i>Daily Challenge</i>	81,000
African American	<i>Harlem News Group</i>	50,000
African American	<i>Hudson Valley Black Press</i>	42,000
African American	<i>New American</i>	60,137
African American	<i>New York Amsterdam News</i>	17,477
African American	<i>New York Beacon</i>	54,000
African American	<i>The New York Journal</i>	65,000
African American	<i>New York Page</i>	40,000
African American	<i>New York Trend</i>	42,000
African American	<i>Our Time</i>	20,000
African American	<i>Point Of View</i>	10,000
African American	<i>Positive Community</i>	50,000
African American	<i>Rolling Out New York</i>	92,841
African American	<i>Rolling Out Newark</i>	55,205
African American	<i>Westchester County Press</i>	10,000
Greenville, NC DMA		
Sunday	<i>Greenville Daily Reflector</i>	20,551
Sunday	<i>New Bern Sun Journal</i>	15,261
African American	<i>Carolina Today</i>	10,000
African American	<i>Daily Drum</i>	10,000
African American	<i>Greenville Times</i>	7,000
Community	<i>Duplin Times & Duplin Today</i>	13,600
Community	<i>Wallace Enterprise</i>	7,376
Community	<i>Warsaw-Faison News</i>	4,297
Community	<i>Jacksonville Daily News</i>	19,723
Los Angeles, CA DMA		
African American	<i>Black Business News</i>	35,000
African American	<i>Black Voice News</i>	10,000
African American	<i>California Crusader News</i>	20,000
African American	<i>Compton Bulletin</i>	26,533
African American	<i>Healthier You</i>	15,000
African American	<i>Inglewood Today</i>	25,000
African American	<i>Inland Valley News</i>	18,500
African American	<i>L.A Bay Observer</i>	30,000
African American	<i>Bakersfield Observer</i>	2,800
African American	<i>San Fernando & Antelope Valley Observer</i>	44,000
African American	<i>L.A. Scoop</i>	50,000
African American	<i>L.A. Watts Times Weekender</i>	50,000
African American	<i>Long Beach Times</i>	15,000
African American	<i>Los Angeles Sentinel</i>	25,000
African American	<i>Metropolis</i>	35,000

African American	<i>Our Weekly</i>	50,000
African American	<i>Precinct Reporter</i>	35,000
African American	<i>Tri-County Bulletin</i>	20,000
African American	<i>Long Beach Leader</i>	20,000
African American	<i>Rolling Out Los Angeles</i>	78,710
African American	<i>San Bernardino American</i>	10,000
African American	<i>The Pasadena Journal</i>	10,000
African American	<i>West Wave</i>	102,500
African American	<i>Northeast Wave</i>	8,000
African American	<i>Herald American</i>	7,000
African American	<i>The Press</i>	4,600
African American	<i>Lynwood Press</i>	3,900
African American	<i>East Wave</i>	14,000
African American	<i>Westside Story</i>	10,000
Atlanta, GA DMA		
Sunday	<i>Atlanta Journal Constitution</i>	435,819
African American	<i>Atlanta Daily World</i>	10,000
African American	<i>Atlanta Inquirer</i>	40,000
African American	<i>Atlanta Tribune</i>	35,000
African American	<i>Atlanta Voice</i>	27,882
African American	<i>Cross Roads News</i>	26,000
African American	<i>Rolling Out Atlanta</i>	69,531
Community	<i>Dunwoody Crier</i>	23,500
Community	<i>Champion Newspaper</i>	23,313
Community	<i>Doraville / Chamblee Neighbor</i>	10,050
Community	<i>Alpharetta/Milton Neighbor</i>	11,700
Community	<i>Atlanta News Leader</i>	14,015
Community	<i>Gwinnett Daily Post</i>	64,197
Community	<i>Clayton Neighbor</i>	37,534
Community	<i>North Cobb Neighbor</i>	22,770
Community	<i>East Cobb Neighbor</i>	44,123
Community	<i>South Cobb Neighbor</i>	23,700
Community	<i>Smyrna Neighbor</i>	9,100
Raleigh, NC DMA		
Sunday	<i>Clinton Sampson Independent</i>	7,703
Sunday	<i>Durham Herald Sun</i>	29,251
Sunday	<i>Fayetteville Observer</i>	60,151
Sunday	<i>Raleigh News & Observer</i>	194,933
African American	<i>The Carolina Times</i>	6,000
African American	<i>The Carolinian</i>	15,250
African American	<i>The Fayetteville Press</i>	7,000

African American	<i>Triangle Tribune</i>	20,000
Community	<i>Durham News</i>	70,500
Community	<i>Eastern Wake News</i>	17,000
Community	<i>Goldsboro News-Argus</i>	21,471
Community	<i>Mount Olive Tribune</i>	4,069
Community	<i>Hoke County News Journal</i>	4,100
Little Rock, AR DMA		
Sunday	<i>Arkansas Democrat-Gazette</i>	270,179
African American	<i>Lincoln Echo</i>	13,387
Community	<i>North Little Rock Times</i>	5,328
Community	<i>Pine Bluff Commercial</i>	19,022
Community	<i>Dumas Clarion</i>	3,250
Community	<i>McGehee Dermott Times-News</i>	3,400
Community	<i>Brinkley Argus</i>	2,200
Community	<i>Monroe County Sun</i>	1,440
Community	<i>Woodruff County Monitor-Leader-Advocate</i>	2,294
Community	<i>De Witt Era-Enterprise</i>	3,125
Community	<i>Stuttgart Daily Leader</i>	2,581
SECONDARY MARKETS		
Detroit, MI DMA		
African American	<i>B.L.A.C. Magazine</i>	30,000
African American	<i>Michigan Chronicle</i>	28,314
African American	<i>Rolling Out Detroit</i>	70,151
Community	<i>Belleville Enterprise</i>	2,263
Community	<i>Canton Observer</i>	11,906
Community	<i>Dearborn Times-Herald</i>	26,267
Community	<i>Sunday Times</i>	7,807
Community	<i>Berkley & Huntington Woods Mirror</i>	9,172
Community	<i>Birmingham Eccentric</i>	16,703
Community	<i>Birmingham-Bloomfield Eagle</i>	34,072
Houston, TX DMA		
African American	<i>African American News & Issues (Greater Houston Gulf Coast, Southeast Texas)</i>	250,000
African American	<i>African American News And Issues - Metroplex Texas Edition</i>	150,000
African American	<i>Rolling Out Houston</i>	67,660
Tulsa, OK DMA		
African American	<i>Oklahoma Eagle</i>	5,000
Community	<i>Okmulgee Daily Times</i>	8,200
Community	<i>Muskogee Daily Phoenix</i>	15,002
Baton Rouge, LA DMA		

African American	<i>Baton Rouge Weekly Press</i>	7,500
Community	<i>Woodville Republican</i>	2,675
Greenwood, MS DMA		
Community	<i>Delta Democrat-Times</i>	10,360
Community	<i>Greenwood Commonwealth</i>	7,407
Community	<i>Bolivar Commercial</i>	6,299
Community	<i>Enterprise Tocsin</i>	6,124
Community	<i>Grenada Daily Star</i>	5,900
Monroe, LA DMA		
African American	<i>Monroe Dispatch</i>	12,000
African American	<i>Monroe Free Press</i>	14,400
Community	<i>Smackover Journal</i>	1,086
Community	<i>Concordia Sentinel</i>	4,500
Wilmington, NC DMA		
African American	<i>Greater Diversity News</i>	5,000
African American	<i>Wilmington Journal</i>	10,000
Community	<i>Whiteville News Reporter</i>	11,235
Community	<i>Pender Chronicle</i>	5,536
Community	<i>Bladen Journal</i>	4,400
Washington, DC DMA		
African American	<i>Metro Herald</i>	42,000
African American	<i>Rolling Out Washington D.C.</i>	61,638
African American	<i>Washington Afro-American</i>	7,211
African American	<i>Baltimore Afro-American</i>	7,179
Charleston, SC DMA		
African American	<i>Charleston Chronicle</i>	6,000
Community	<i>Hemingway Weekly Observer</i>	2,336
Community	<i>Kingstree News</i>	4,800
Dallas, TX DMA		
African American	<i>African-American News & Issues - Metroplex-North, Texas Edition</i>	150,000
African American	<i>Rolling Out Dallas</i>	63,768
African American	<i>Elite News</i>	50,000
Community	<i>Weekly Livestock Reporter</i>	10,000
Community	<i>Paris News</i>	10,000
Flint, MI DMA		
Community	<i>Tri-County Citizen</i>	19,686
Community	<i>Tri-County Times</i>	13,875
Community	<i>Mt. Morris / Clio Herald</i>	25,821
Community	<i>Flint Township News</i>	12,342
Macon, GA DMA		

African American	<i>Georgia Informer</i>	20,000
African American	<i>Macon Courier</i>	17,300
Community	<i>Houston Daily Journal</i>	13,000
Community	<i>Citizen Georgian</i>	3,300
Miami, FL DMA		
African American	<i>Community Voice</i>	12,000
African American	<i>Rolling Out Miami</i>	65,928
African American	<i>Westside Gazette</i>	30,000
African American	<i>South Florida Times (formerly Broward Times)</i>	26,000
Beaumont-Port Arthur, TX DMA		
Community	<i>Port Arthur News</i>	15,554
Milwaukee, WI DMA		
African American	<i>Milwaukee Community Journal</i>	39,000
African American	<i>Milwaukee Courier</i>	40,000
Community	<i>Milwaukee Post</i>	26,492
Biloxi-Gulfport, MS DMA		
Community	<i>Biloxi Sun Herald</i>	49,000
Community	<i>Ocean Springs Record - Gautier Independent</i>	3,200
Philadelphia, PA DMA		
African American	<i>Rolling Out Philadelphia</i>	70,203
African American	<i>Philadelphia Tribune - Metro Edition</i>	68,873
African American	<i>Scoop USA</i>	32,000
Tallahassee, FL DMA		
African American	<i>Capital Outlook</i>	15,000
Community	<i>Valdosta Daily Times</i>	20,800
San Francisco, CA DMA		
African American	<i>Rolling Out San Francisco Bay Area</i>	65,350
African American	<i>Oakland Post</i>	30,000
African American	<i>Berkeley Tri-City Post</i>	6,000
African American	<i>Richmond Post</i>	6,000
African American	<i>San Francisco Post</i>	6,000
African American	<i>South County Post</i>	6,000
African American	<i>Marin County</i>	6,000
Community	<i>Alameda Sun</i>	20,000
Community	<i>Castro Valley Forum</i>	22,500
Community	<i>Alameda Journal</i>	24,500
Community	<i>The Montclarion</i>	30,000
Community	<i>Pleasanton Weekly</i>	18,000
Cleveland, OH DMA		
African American	<i>Rolling Out Cleveland</i>	55,818

African American	<i>City News</i>	50,000
St. Louis, MO DMA		
African American	<i>St. Louis American</i>	70,000
African American	<i>Rolling Out St. Louis</i>	64,736
Greensboro, NC DMA		
African American	<i>The Carolina Peacemaker</i>	6,056
African American	<i>The Chronicle</i>	7,642
Community	<i>Charlotte Post</i>	20,378
Community	<i>Kernersville News</i>	6,000
Community	<i>Winston-Salem Chronicle</i>	10,500
Tampa, FL DMA		
African American	<i>Tempo News</i>	40,000
African American	<i>Florida Sentinel Bulletin</i>	23,000
Community	<i>Farm & Ranch News</i>	17,964
Jacksonville, FL DMA		
African American	<i>Florida Star</i>	8,500
African American	<i>Jacksonville Free Press</i>	38,500
Community	<i>Mayport Mirror</i>	10,000
Community	<i>Blackshear Times</i>	3,620
Sherman, OK DMA		
Community	<i>Choctaw County Times</i>	1,729
Community	<i>Hugo Daily News</i>	2,899
Community	<i>Daily Ardmoreite</i>	9,800
Lafayette, LA DMA		
African American	<i>Gumbeaux Magazine</i>	10,000
Community	<i>Breaux Bridge Marketplace</i>	12,185
Community	<i>Teche News</i>	5,500
Savannah, GA DMA		
African American	<i>Savannah Herald</i>	12,000
African American	<i>Savannah Tribune</i>	15,000

NP APPENDIX 2:
RADIO STATIONS

RADIO BY DESIGNATED MARKET AREA (DMA)		
Station	Format	Network or Local Programming Placement
PRIMARY MARKETS		
Jackson, MS DMA		
WELZ-AM	Blues	Network Programming (AURN)
WEMX-FM	Urban Contemporary	Network Programming (AURN)
WGNG-FM	Rhythmic-Contemporary Radio Hits	Network Programming (AURN)
WKXI-FM	Urban Adult Contemporary	Network Programming (AURN)
WKXI-FM	Urban Adult Contemporary	Local Programming
WMIS-AM	Blues	Network Programming (AURN)
WOAD-AM	Black Gospel	Network Programming (AURN)
WOAD-AM	Black Gospel	Local Programming
WONG-AM	Black Gospel	Network Programming (AURN)
WTYJ-FM	Blues	Network Programming (AURN)
Memphis, TN DMA		
KAKJ-FM	Urban Adult Contemporary	Network Programming (AURN)
KCLT-FM	Urban Adult Contemporary	Network Programming (AURN)
KJMS-FM	Urban Adult Contemporary	Network Programming (AURN)
WAID-FM	Urban Contemporary	Network Programming (AURN)
WDIA-AM	Urban Adult Contemporary	Network Programming (AURN)
WDIA-AM	Urban Adult Contemporary	Local Programming
WKRA-AM	Black Gospel	Network Programming (AURN)
WLOK-AM	Black Gospel	Local Programming
WNEV-FM	Urban Adult Contemporary	Network Programming (AURN)
WRBO-FM	R&B Oldies	Local Programming
WZAZ-AM	Black Gospel	Network Programming (AURN)
Myrtle Beach, SC DMA		
WBZF-FM	Black Gospel	Network Programming (AURN)
WCCG-FM	Urban Contemporary	Network Programming (AURN)
WCMG-FM	Rock	Network Programming (AURN)
WDAI-FM	Urban Contemporary	Local Programming
WDSC-AM	Black Gospel	Network Programming (AURN)
WJAY-AM	Black Gospel	Network Programming (AURN)
WJNI-FM	Black Gospel	Network Programming (AURN)
WPJS-AM	Black Gospel	Local Programming
WWDM-FM	Urban Adult Contemporary	Local Programming
WWRK-AM	Black Gospel	Network Programming (AURN)

WZFX-FM	Urban Contemporary	Network Programming (AURN)
WZTF-FM	Urban Adult Contemporary	Network Programming (AURN)
Montgomery, AL DMA		
WAPZ-AM	R&B Oldies	Network Programming (AURN)
WAPZ-AM	R&B Oldies	Local Programming
WJAM-AM	Urban Adult Contemporary	Network Programming (AURN)
WJUS-AM	Black Gospel	Network Programming (AURN)
WJWZ-FM	Urban Contemporary	Network Programming (AURN)
WMRK-FM	News/Talk	Network Programming (AURN)
WTHB-FM	Black Gospel	Network Programming (AURN)
WTUG-FM	Urban Adult Contemporary	Network Programming (AURN)
WWMG-FM	Urban Adult Contemporary	Network Programming (AURN)
WWMG-FM	Urban Adult Contemporary	Local Programming
WXVI-AM	Gospel Music	Network Programming (AURN)
WZNJ-FM	Urban Adult Contemporary	Network Programming (AURN)
Hattiesburg-Laurel, MS DMA		
WGDQ-FM	R&B Oldies	Local Programming
WGOK-AM	Black Gospel	Network Programming (AURN)
WJKX-FM	Urban Adult Contemporary	Network Programming (AURN)
WJKX-FM	Urban Adult Contemporary	Local Programming
WJMG-FM	Urban Contemporary	Network Programming (AURN)
WKXI-FM	Urban Adult Contemporary	Network Programming (AURN)
WKXI-FM	Urban Adult Contemporary	Local Programming
WORV-AM	Black Gospel	Network Programming (AURN)
Charlotte, NC DMA		
WFXC-FM	Urban Adult Contemporary	Local Programming
WGIV-AM	Black Gospel	Network Programming (AURN)
WPZS-FM	Black Gospel	Network Programming (Radio One)
WPZS-FM	Black Gospel	Local Programming
WQNC-FM	R&B Oldies	Network Programming (Radio One)
WQNC-FM	R&B Oldies	Local Programming
Birmingham, AL DMA		
WAGG-AM	Black Gospel	Network Programming (AURN)
WAGG-AM	Black Gospel	Local Programming
WATV-AM	R&B Oldies	Network Programming (AURN)
WBHK-FM	Urban Adult Contemporary	Local Programming
WJLD-AM	Blues	Network Programming (AURN)
WMGJ-AM	Urban Adult Contemporary	Network Programming (AURN)
WMXB-AM	Urban Contemporary	Network Programming (AURN)

WPJM-AM	Black Gospel	Network Programming (AURN)
WTUG-FM	Urban Adult Contemporary	Network Programming (AURN)
WWPG-FM	Urban Adult Contemporary	Network Programming (AURN)
Chicago, IL DMA		
WGCI-FM	Urban Contemporary	Network Programming (AURN)
WGRB-AM	Black Gospel	Network Programming (AURN)
WKKV-FM	Urban Contemporary	Network Programming (AURN)
WSRB-FM	Urban Adult Contemporary	Network Programming (AURN)
WSRB-FM	Urban Adult Contemporary	Local Programming
WVAZ-FM	Urban Adult Contemporary	Network Programming (AURN)
WVON-AM	Talk	Network Programming (AURN)
WVON-AM	Talk	Local Programming
Columbus, MS DMA		
WACR-FM	Urban Adult Contemporary	Network Programming (AURN)
WACR-FM	Urban Adult Contemporary	Local Programming
WAJV-FM	Black Gospel	Network Programming (AURN)
WAJV-FM	Black Gospel	Local Programming
WESE-FM	Urban Contemporary	Network Programming (AURN)
WGNG-FM	Rhythmic-Contemporary Radio Hits	Network Programming (AURN)
WKMQ-AM	Talk	Network Programming (AURN)
WMSU-FM	Urban Contemporary	Network Programming (AURN)
WMXU-FM	Urban Adult Contemporary	Network Programming (AURN)
WTUG-FM	Urban Adult Contemporary	Network Programming (AURN)
WTUP-AM	Sports	Network Programming (AURN)
WTWG-AM	Talk	Network Programming (AURN)
WWKZ-FM	Contemporary Radio Hits	Network Programming (AURN)
WWZD-FM	Country	Network Programming (AURN)
WZKS-FM	Urban Adult Contemporary	Network Programming (AURN)
Oklahoma City, OK DMA		
KACO-FM	Classic Country	Network Programming (AURN)
KRMP-AM	Urban Adult Contemporary	Network Programming (AURN)
KRMP-AM	Urban Adult Contemporary	Local Programming
KVSP-FM	Urban Contemporary	Network Programming (AURN)
KVSP-FM	Urban Contemporary	Local Programming
Meridian, MS DMA		
WHTU-FM	Rhythmic-Contemporary Radio Hits	Network Programming (AURN)
WJDQ-FM	Hot Adult Contemporary	Network Programming (AURN)
WJKX-FM	Urban Adult Contemporary	Network Programming (AURN)
WKXI-FM	Urban Adult Contemporary	Network Programming (AURN)

WKXI-FM	Urban Adult Contemporary	Local Programming
WMSO-FM	Country	Network Programming (AURN)
WNBN-AM	Black Gospel	Network Programming (AURN)
WNBN-AM	Black Gospel	Local Programming
WSLY-FM	Sports	Network Programming (AURN)
WTUG-FM	Urban Adult Contemporary	Network Programming (AURN)
WYHL-AM	Black Gospel	Network Programming (AURN)
WZKS-FM	Urban Adult Contemporary	Network Programming (AURN)
WZKS-FM	Urban Adult Contemporary	Local Programming
WZNJ-FM	Urban Adult Contemporary	Network Programming (AURN)
Columbus, GA DMA		
WAGH-FM	Urban Adult Contemporary	Network Programming (AURN)
WALR-FM	Urban Adult Contemporary	Network Programming (AURN)
WEAM-FM	Black Gospel	Local Programming
WFXE-FM	Urban Contemporary	Network Programming (AURN)
WJIZ-FM	Urban Contemporary	Network Programming (AURN)
WKZJ-FM	Urban Adult Contemporary	Local Programming
WLEL-FM	Black Gospel	Network Programming (AURN)
WMRZ-FM	Urban Adult Contemporary	Network Programming (AURN)
Huntsville-Decatur, AL DMA		
WEUP-AM	Black Gospel	Network Programming (AURN)
WEUP-AM	Black Gospel	Local Programming
WEUP-FM	Urban Contemporary	Network Programming (AURN)
WEUP-FM	Urban Contemporary	Local Programming
WHRP-FM	Urban Adult Contemporary	Local Programming
WLAY-AM	Rock/Blues/Local Sounds	Network Programming (AURN)
WLAY-FM	Country	Network Programming (AURN)
WMSR-FM	Contemporary Radio Hits	Network Programming (AURN)
WMXV-FM	Urban Adult Contemporary	Network Programming (AURN)
WVNA-AM	News/Talk	Network Programming (AURN)
WZZA-AM	Urban Contemporary	Network Programming (AURN)
Mobile, AL DMA		
WDLT-FM	Urban Adult Contemporary	Network Programming (AURN)
WDLT-FM	Urban Adult Contemporary	Local Programming
WFTH-AM	Black Gospel	Network Programming (AURN)
WGOK-AM	Black Gospel	Network Programming (AURN)
WGOK-AM	Black Gospel	Local Programming
WRNE-AM	Urban Adult Contemporary	Network Programming (AURN)
WXQW-AM	Black Gospel	Network Programming (AURN)

New Orleans, LA DMA		
KMEZ-FM	Urban Adult Contemporary	Local Programming
WBOK-AM	Talk	Network Programming (AURN)
WBOK-AM	Talk	Local Programming
WEMX-FM	Urban Contemporary	Network Programming (AURN)
WPRF-FM	Black Gospel	Local Programming
WYLD-AM	Black Gospel	Network Programming (AURN)
Dothan, AL DMA		
WAGF-AM	Talk	Network Programming (AURN)
WAGF-FM	Urban Adult Contemporary	Network Programming (AURN)
WAGF-FM	Urban Adult Contemporary	Local Programming
WJIZ-FM	Urban Contemporary	Network Programming (AURN)
WJJN-FM	Urban Contemporary	Network Programming (AURN)
WORV-AM	Black Gospel	Network Programming (AURN)
Albany, GA DMA		
WHLJ-FM	Urban Adult Contemporary	Network Programming (AURN)
WJIZ-FM	Urban Contemporary	Network Programming (AURN)
WJYZ-AM	Black Gospel	Network Programming (AURN)
WJYZ-AM	Black Gospel	Local Programming
WMRZ-FM	Urban Adult Contemporary	Network Programming (AURN)
WMRZ-FM	Urban Adult Contemporary	Local Programming
WQVE-FM	Urban Adult Contemporary	Network Programming (AURN)
WSTI-FM	Urban Contemporary	Network Programming (AURN)
WWIL-AM	Black Gospel	Network Programming (AURN)
WZBN-FM	Urban Contemporary	Network Programming (AURN)
Columbia, SC DMA		
WBZF-FM	Black Gospel	Network Programming (AURN)
WFMV-FM	Black Gospel	Network Programming (AURN)
WFMV-FM	Black Gospel	Local Programming
WGCV-AM	Black Gospel	Network Programming (AURN)
WGCV-AM	Black Gospel	Local Programming
WHXT-FM	Urban Contemporary	Network Programming (AURN)
WJBS-AM	Gospel Music	Network Programming (AURN)
WLJI-FM	Black Gospel	Network Programming (AURN)
WWDM-FM	Urban Adult Contemporary	Local Programming
WXBT-FM	Urban Contemporary	Network Programming (AURN)
New York, NY DMA		
WBLS-FM	Urban Adult Contemporary	Network Programming (AURN)
WBLS-FM	Urban Adult Contemporary	Local Programming

WLIB-AM	Black Gospel	Network Programming (AURN)
WLIB-AM	Black Gospel	Local Programming
WRKS-FM	Urban Adult Contemporary	Network Programming (AURN)
WWRL-AM	Talk	Network Programming (AURN)
Greenville-New Bern, NC DMA		
WANS-AM	Talk	Network Programming (AURN)
WELS-FM	Black Gospel	Local Programming
WFGN-AM	Black Gospel	Network Programming (AURN)
WFXC-FM	Urban Adult Contemporary	Local Programming
WIKS-FM	Urban Adult Contemporary	Local Programming
WJPI-AM	Black Gospel	Network Programming (AURN)
WOOW-AM	Black Gospel	Network Programming (AURN)
WPJM-AM	Black Gospel	Network Programming (AURN)
WVOT-AM	Black Gospel	Network Programming (AURN)
WZFX-FM	Urban Contemporary	Network Programming (AURN)
Los Angeles, CA DMA		
KDAY-FM	R&B Oldies	Network Programming (AURN)
KDAY-FM	R&B Oldies	Local Programming
KJLH-FM	Urban Adult Contemporary	Local Programming
Atlanta, GA DMA		
KDYA-AM	Black Gospel	Network Programming (AURN)
WALR-FM	Urban Adult Contemporary	Network Programming (AURN)
WAMJ-FM	Urban Adult Contemporary	Network Programming (Radio One)
WAMJ-FM	Urban Adult Contemporary	Local Programming
WAOK-AM	News/Talk	Network Programming (AURN)
WGJK-AM	Urban Contemporary	Network Programming (AURN)
WHAT-FM	Mainstream/Urban	Network Programming (Radio One)
WIGO-AM	Black Gospel	Network Programming (AURN)
WPZE-FM	Black Gospel	Network Programming (Radio One)
WPZE-FM	Black Gospel	Local Programming
WTJH-AM	Gospel	Network Programming (AURN)
WXAG-AM	Black Gospel	Network Programming (AURN)
Raleigh-Durham, NC DMA		
WAUG-AM	Talk	Network Programming (AURN)
WBOB-FM	Black Gospel	Network Programming (AURN)
WCCG-FM	Urban Contemporary	Network Programming (AURN)
WFMC-AM	Black Gospel	Network Programming (AURN)
WFXC-FM	Urban Adult Contemporary	Network Programming (Radio One)
WFXC-FM	Urban Adult Contemporary	Local Programming

WFXK-FM	Urban Adult Contemporary	Network Programming (Radio One)
WGTM-AM	Religious	Network Programming (AURN)
WIKS-FM	Urban Adult Contemporary	Local Programming
WJTB-AM	Black Gospel	Network Programming (AURN)
WNNL-FM	Black Gospel	Network Programming (Radio One)
WNNL-FM	Black Gospel	Local Programming
WPZS-FM	Black Gospel	Local Programming
WQOK-FM	Mainstream/Urban	Network Programming (Radio One)
WSSG-AM	Black Gospel	Network Programming (AURN)
WZFX-FM	Urban Contemporary	Network Programming (AURN)
Little Rock, AR DMA		
KOKY-FM	Urban Adult Contemporary	Local Programming
KRKD-FM	Urban Adult Contemporary	Network Programming (AURN)
KPZK-FM	Black Gospel	Local Programming
KVDW-AM	Southern Gospel	Network Programming (AURN)
SECONDARY MARKETS		
Detroit, MI DMA		
WCHB-AM	News Talk	Network Programming (Radio One)
WDMK-FM	Urban Adult Contemporary	Network Programming (Radio One)
WHTD-FM	Hip-Hop	Network Programming (Radio One)
Houston, TX DMA		
KANI-AM	Religious Teaching	Network Programming (AURN)
KBXX-FM	Urban	Network Programming (Radio One)
KMJQ-FM	Urban Adult Contemporary	Network Programming (Radio One)
KROI-FM	Contemporary Inspiration	Network Programming (Radio One)
KWWJ-AM	Black Gospel	Network Programming (AURN)
Tulsa, OK DMA		
KEOR-AM	Urban Adult Contemporary	Network Programming (AURN)
KGTO-AM	Urban Adult Contemporary	Network Programming (AURN)
KJMM-FM	Urban Contemporary	Network Programming (AURN)
Baton Rouge, LA DMA		
KBZE-FM	Urban Adult Contemporary	Network Programming (AURN)
KCLF-AM	Urban Adult Contemporary	Network Programming (AURN)
WEMX-FM	Urban Contemporary	Network Programming (AURN)
WYLD-AM	Black Gospel	Network Programming (AURN)
Greenwood, MS DMA		
WAID-FM	Urban Contemporary	Network Programming (AURN)
WBAD-FM	Urban Contemporary	Network Programming (AURN)
WCLD-FM	Urban Contemporary	Network Programming (AURN)

WDIA-AM	Urban Adult Contemporary	Network Programming (AURN)
WESY-AM	Black Gospel	Network Programming (AURN)
WGNG-FM	Rhythmic-Contemporary Radio Hits	Network Programming (AURN)
WGNL-FM	Urban Adult Contemporary	Network Programming (AURN)
Monroe, LA-El Dorado, TX DMA		
KMLK-FM	Urban Adult Contemporary	Network Programming (AURN)
Wilmington, NC DMA		
WLEL-FM	Black Gospel	Network Programming (AURN)
WVOE-AM	Black Gospel	Network Programming (AURN)
WWIL-AM	Black Gospel	Network Programming (AURN)
WZFX-FM	Urban Contemporary	Network Programming (AURN)
Washington, DC DMA		
WHUR-HD	Urban Adult Contemporary	Network Programming (AURN)
WKYS-FM	Urban Contemporary.	Network Programming (Radio One)
WMMJ-FM	Urban Adult Contemporary	Network Programming (Radio One)
WOL-AM	Talk	Network Programming (Radio One)
WPRS-FM	Black Gospel	Network Programming (Radio One)
WYCB-AM	Gospel	Network Programming (Radio One)
Charleston, SC DMA		
KRMV-AM	Black Gospel	Network Programming (AURN)
WIIZ-FM	Urban Contemporary	Network Programming (AURN)
WJNI-FM	Black Gospel	Network Programming (AURN)
WLMC-AM	Black Gospel	Network Programming (AURN)
WSCC-FM	Talk	Network Programming (AURN)
Dallas, TX DMA		
KBFB-FM	Mainstream/Urban	Network Programming (Radio One)
KSOC-FM	Urban Adult Contemporary	Network Programming (Radio One)
Flint, MI DMA		
WDZZ-FM	Urban Adult Contemporary	Network Programming (AURN)
WFLT-AM	Black Gospel	Network Programming (AURN)
WOWE-FM	R&B Oldies	Network Programming (AURN)
WWCK-FM	Contemporary Radio Hits	Network Programming (AURN)
Macon, GA DMA		
WALR-FM	Urban Adult Contemporary	Network Programming (AURN)
WDDO-AM	Black Gospel	Network Programming (AURN)
WEAS-FM	Urban Contemporary	Network Programming (AURN)
WIBB-AM	Talk	Network Programming (AURN)
WJIZ-FM	Urban Contemporary	Network Programming (AURN)
WLEL-FM	Black Gospel	Network Programming (AURN)

WQMJ-FM	R&B Oldies	Network Programming (AURN)
WTHB-FM	Black Gospel	Network Programming (AURN)
WXVI-AM	Gospel Music	Network Programming (AURN)
Miami, FL DMA		
WMIA-FM	Rhythmic AC	Network Programming (AURN)
Beaumont, TX DMA		
KTCX-FM	Urban Contemporary	Network Programming (AURN)
KIKR-AM	Regional Mexican	Network Programming (AURN)
Milwaukee, WI DMA		
WKKV-FM	Urban Contemporary	Network Programming (AURN)
WMCS-AM	Talk	Network Programming (AURN)
Biloxi-Gulfport, MS DMA		
WDLT-FM	Urban Adult Contemporary	Network Programming (AURN)
WGOK-AM	Black Gospel	Network Programming (AURN)
WJZD-FM	Urban Adult Contemporary	Network Programming (AURN)
WTMN-AM	Black Gospel	Network Programming (AURN)
WYLD-AM	Black Gospel	Network Programming (AURN)
WILD-AM	Talk	Network Programming (Radio One)
Philadelphia, PA DMA		
WDAS-FM	Urban Adult Contemporary	Network Programming (AURN)
WJKS-FM	Urban Contemporary	Network Programming (AURN)
WPHI-FM	Hip-Hop/R&B	Network Programming (Radio One)
WPPZ-FM	Inspiration	Network Programming (Radio One)
WRNB-FM	R&B	Network Programming (Radio One)
WUBA-AM	Tropical	Network Programming (AURN)
WURD-AM	Talk	Network Programming (AURN)
Tallahassee-Thomasville, FL DMA		
WDSC-AM	Black Gospel	Network Programming (AURN)
WGOV-AM	Urban Adult Contemporary	Network Programming (AURN)
WHBT-AM	Black Gospel	Network Programming (AURN)
WHLJ-FM	Urban Adult Contemporary	Network Programming (AURN)
WJIZ-FM	Urban Contemporary	Network Programming (AURN)
WSTI-FM	Urban Contemporary	Network Programming (AURN)
WWLD-FM	Urban Contemporary	Network Programming (AURN)
WWSD-AM	Gospel	Network Programming (AURN)
San Francisco, CA DMA		
KBLX-FM	Urban Adult Contemporary	Network Programming (AURN)
KDYA-AM	Black Gospel	Network Programming (AURN)
Cleveland, OH DMA		

WENZ-FM	Hip-Hop/R&B	Network Programming (Radio One)
WERE-AM	Talk	Network Programming (Radio One)
WJMO-AM	Inspiration	Network Programming (Radio One)
WJMO-AM	Black Gospel	Network Programming (AURN)
WJTB-AM	Black Gospel	Network Programming (AURN)
WSIR-AM	Black Gospel	Network Programming (AURN)
WZAK-FM	R&B	Network Programming (Radio One)
St Louis, MO DMA		
KATZ-AM	Black Gospel	Network Programming (AURN)
KMJM-FM	Urban Adult Contemporary	Network Programming (AURN)
WFUN-FM	Urban Adult Contemporary	Network Programming (Radio One)
WHHL-FM	Mainstream/Urban	Network Programming (Radio One)
WQQX-AM	Adult Standards	Network Programming (AURN)
Greensboro, NC DMA		
WKEW-AM	Black Gospel	Network Programming (AURN)
WLQM-AM	Black Gospel	Network Programming (AURN)
WPOL-AM	Black Gospel	Network Programming (AURN)
Tampa-St. Petersburg, FL DMA		
WSIR-AM	Black Gospel	Network Programming (AURN)
WTMP-AM	Urban Adult Contemporary	Network Programming (AURN)
WZHR-AM	Southern Gospel	Network Programming (AURN)
Jacksonville, FL DMA		
WKEW-AM	Black Gospel	Network Programming (AURN)
WZAZ-AM	Black Gospel	Network Programming (AURN)
Lafayette, LA DMA		
KBZE-FM	Urban Adult Contemporary	Network Programming (AURN)
KJCB-AM	Black Gospel	Network Programming (AURN)
KKST-FM	Urban Contemporary	Network Programming (AURN)
KRRQ-FM	Urban Contemporary	Network Programming (AURN)
KVTZ-FM	Variety	Network Programming (AURN)
WEMX-FM	Urban Contemporary	Network Programming (AURN)
Savannah, GA DMA		
WEAS-FM	Urban Contemporary	Network Programming (AURN)
WLVH-FM	Urban Adult Contemporary	Network Programming (AURN)
WQBT-FM	Urban Contemporary	Network Programming (AURN)
WSOK-AM	Black Gospel	Network Programming (AURN)
WVGB-AM	Black Gospel	Network Programming (AURN)
NON-TARGETED MARKETS		
Alexandria, LA DMA		

KBCE-FM	Urban Contemporary	Network Programming (AURN)
KKST-FM	Urban Contemporary	Network Programming (AURN)
KMXH-FM	Urban Adult Contemporary	Network Programming (AURN)
KRRQ-FM	Urban Contemporary	Network Programming (AURN)
Augusta, GA DMA		
WAAW-FM	Black Gospel	Network Programming (AURN)
WAEG-FM	Smooth Jazz	Network Programming (AURN)
WAKB-FM	Urban Adult Contemporary	Network Programming (AURN)
WFMV-FM	Black Gospel	Network Programming (AURN)
WFXA-FM	Urban Contemporary	Network Programming (AURN)
WHXT-FM	Urban Contemporary	Network Programming (AURN)
WIIZ-FM	Urban Contemporary	Network Programming (AURN)
WKZK-AM	Black Gospel	Network Programming (AURN)
WTHB-AM	Black Gospel	Network Programming (AURN)
WTHB-FM	Black Gospel	Network Programming (AURN)
Baltimore, MD DMA		
WERQ-FM	Urban	Network Programming (Radio One)
WHUR-HD	Urban Adult Contemporary	Network Programming (AURN)
WKYS-FM	Urban Contemporary	Network Programming (AURN)
WOLB-AM	Black Talk	Network Programming (Radio One)
WPRS-FM	Black Gospel	Network Programming (AURN)
WWIN-AM	Gospel	Network Programming (Radio One)
WWIN-FM	Urban Adult Contemporary	Network Programming (Radio One)
Bowling Green, KY DMA		
WAGF-FM	Urban Adult Contemporary	Network Programming (AURN)
WPRT-HD	Black Gospel	Network Programming (AURN)
Buffalo, NY DMA		
WBLK-FM	Urban Contemporary	Network Programming (AURN)
WKRA-AM	Black Gospel	Network Programming (AURN)
WUFO-AM	Black Gospel	Network Programming (AURN)
Cedar Rapids, IA DMA		
KBBG-FM	Variety	Network Programming (AURN)
Champaign, IL DMA		
WBCP-AM	Urban Adult Contemporary	Network Programming (AURN)
Charlottesville DMA		
WPZZ-FM	Black Gospel	Network Programming (AURN)
Chattanooga, TN DMA		
WMPZ-FM	Urban Adult Contemporary	Network Programming (AURN)
WNOO-AM	Black Gospel	Network Programming (AURN)
Cincinnati, OH DMA		

WDBZ-AM	Talk	Network Programming (Radio One)
WDHT-FM	Rhythmic-Contemporary Radio Hits	Network Programming (AURN)
WIZF-FM	Rhythmic-Contemporary Radio Hits	Network Programming (Radio One)
WMOJ-FM	Rhythmic-Contemporary Radio Hits	Network Programming (Radio One)
Columbus, OH DMA		
WCKX-FM	Mainstream Urban	Network Programming (Radio One)
WDHT-FM	Rhythmic-Contemporary Radio Hits	Network Programming (AURN)
WJYD-FM	Gospel	Network Programming (Radio One)
WXMG-FM	R&B Oldies	Network Programming (Radio One)
Corpus Christi, TX DMA		
KNDA-FM	Rhythmic-Contemporary Radio Hits	Network Programming (AURN)
Dayton, OH DMA		
WDHT-FM	Rhythmic-Contemporary Radio Hits	Network Programming (AURN)
Des Moines, IA DMA		
KJMC-FM	Urban Contemporary	Network Programming (AURN)
Erie, PA DMA		
WBLK-FM	Urban Contemporary	Network Programming (AURN)
Evansville, IN DMA		
WEOA-AM	Urban Adult Contemporary	Network Programming (AURN)
Gainesville, FL DMA		
WAGF-FM	Urban Adult Contemporary	Network Programming (AURN)
WTMN-AM	Black Gospel	Network Programming (AURN)
Grand Rapids, MI DMA		
WVHF-AM	Religious	Network Programming (AURN)
Harrisburg, PA DMA		
WNNK-HD	Hot AC	Network Programming (AURN)
Indianapolis, IN DMA		
WHHH-FM	Rhythmic-Contemporary Radio Hits	Network Programming (Radio One)
WNOU-FM	Contemporary Radio Hits	Network Programming (Radio One)
WTLC-AM	Contemporary Gospel	Network Programming (Radio One)
WTLC-FM	Urban Adult Contemporary	Network Programming (Radio One)
Jackson, TN DMA		
WFKX-FM	Urban Contemporary	Network Programming (AURN)
WLCD-FM	College	Network Programming (AURN)
WOJG-FM	Black Gospel	Network Programming (AURN)
Jonesboro, AR DMA		
KJMS-FM	Urban Adult Contemporary	Network Programming (AURN)
Kansas City, KS DMA		
KGGN-AM	Black Gospel	Network Programming (AURN)

KPRS-FM	Urban Contemporary	Network Programming (AURN)
KPRT-AM	Black Gospel	Network Programming (AURN)
Lake Charles, LA DMA		
KJCB-AM	Black Gospel	Network Programming (AURN)
KKST-FM	Urban Contemporary	Network Programming (AURN)
KRRQ-FM	Urban Contemporary	Network Programming (AURN)
KTCX-FM	Urban Contemporary	Network Programming (AURN)
Lansing, MI DMA		
WQHH-FM	Urban Contemporary	Network Programming (AURN)
WWSJ-AM	Black Gospel	Network Programming (AURN)
Lexington, KY DMA		
WKVO-FM	Contemporary Christian	Network Programming (AURN)
Lima, OH DMA		
WDHT-FM	Rhythmic-Contemporary Radio Hits	Network Programming (AURN)
Louisville, KY DMA		
WGZB-FM	Urban Contemporary	Network Programming (AURN)
Lubbock, TX DMA		
KBTE-FM	Rhythmic-Contemporary Radio Hits	Network Programming (AURN)
Minneapolis, MN DMA		
KMOJ-FM	Urban Contemporary	Network Programming (AURN)
Monterey-Salinas, CA DMA		
KRML-AM	Jazz	Network Programming (AURN)
Nashville, TN DMA		
WBOB-FM	Black Gospel	Network Programming (AURN)
WPRT-HD	Black Gospel	Network Programming (AURN)
WQQK-FM	Urban Adult Contemporary	Network Programming (AURN)
Norfolk, VA DMA		
WCPK-AM	Black Gospel	Network Programming (AURN)
WGPL-AM	Black Gospel	Network Programming (AURN)
WLQM-AM	Black Gospel	Network Programming (AURN)
WMXB-AM	Urban Contemporary	Network Programming (AURN)
Orlando, FL DMA		
WOKB-AM	Black Gospel	Network Programming (AURN)
WPUL-AM	Talk	Network Programming (AURN)
Panama City, FL DMA		
WAGF-FM	Urban Adult Contemporary	Network Programming (AURN)
WHLJ-FM	Urban Adult Contemporary	Network Programming (AURN)
WJJN-FM	Urban Contemporary	Network Programming (AURN)
Pittsburgh, PA DMA		

WGBN-AM	Black Gospel	Network Programming (AURN)
Portland, OR DMA		
KBMS-AM	Urban Adult Contemporary	Network Programming (AURN)
Richmond, VA DMA		
WCDX-FM	Urban Contemporary	Network Programming (Radio One)
WFTH-AM	Black Gospel	Network Programming (AURN)
WKJM-FM	Urban Adult Contemporary	Network Programming (Radio One)
WKJS-FM	Urban Adult Contemporary	Network Programming (Radio One)
WPZZ-FM	Black Gospel	Network Programming (Radio One)
WTPS-AM	Talk	Network Programming (Radio One)
WUFO-AM	Black Gospel	Network Programming (AURN)
WYTT-FM	Urban Adult Contemporary	Network Programming (AURN)
Roanoke, VA DMA		
WKBY-AM	Black Gospel	Network Programming (AURN)
WPZZ-FM	Black Gospel	Network Programming (AURN)
WQOK-FM	Urban Contemporary	Network Programming (AURN)
WTOY-AM	Urban Adult Contemporary	Network Programming (AURN)
WXQW-AM	Black Gospel	Network Programming (AURN)
Rockford, IL DMA		
WGCI-FM	Urban Contemporary	Network Programming (AURN)
Sacramento, CA DMA		
KBLX-FM	Urban Adult Contemporary	Network Programming (AURN)
Seattle, WA DMA		
KRIZ-AM	Talk	Network Programming (AURN)
KZIZ-AM	Black Gospel	Network Programming (AURN)
Shreveport, LA DMA		
KBEF-FM	Contemporary Christian	Network Programming (AURN)
KBTT-FM	Urban Contemporary	Network Programming (AURN)
KDKS-FM	Urban Adult Contemporary	Network Programming (AURN)
KMJJ-FM	Urban Contemporary	Network Programming (AURN)
KOKA-AM	Black Gospel	Network Programming (AURN)
KVMA-FM	R&B Oldies	Network Programming (AURN)
KZRB-FM	Urban Contemporary	Network Programming (AURN)
South Bend, IN DMA		
WUBS-FM	Black Gospel	Network Programming (AURN)
WUBU-FM	Urban Adult Contemporary	Network Programming (AURN)
Toledo, OH DMA		
WIMX-FM	Urban Adult Contemporary	Network Programming (AURN)
WJZE-FM	Urban Contemporary	Network Programming (AURN)
Topeka, KS DMA		

KPRS-FM	Urban Contemporary	Network Programming (AURN)
Tyler-Longview, TX DMA		
KGLD-AM	Black Gospel	Network Programming (AURN)
Waco, TX DMA		
KBEF-FM	Contemporary Christian	Network Programming (AURN)
KBXT-FM	Rhythmic-Contemporary Radio Hits	Network Programming (AURN)
KRMV-AM	Black Gospel	Network Programming (AURN)
KWBT-FM	Rhythmic-Contemporary Radio Hits	Network Programming (AURN)
Wichita Falls, OK DMA		
KACO-FM	Classic Country	Network Programming (AURN)
KDDQ-FM	Classic Rock	Network Programming (AURN)
KJMZ-FM	Urban Contemporary	Network Programming (AURN)
KKEN-FM	Classic Country	Network Programming (AURN)
KKRX-AM	Urban Adult Contemporary	Network Programming (AURN)
KPNS-AM	Talk	Network Programming (AURN)
KVSP-FM	Urban Contemporary	Network Programming (AURN)
KXCA-AM	Sports	Network Programming (AURN)
Youngstown, OH DMA		
WASN-AM	Black Gospel	Network Programming (AURN)
WENZ-FM	Urban Contemporary	Network Programming (AURN)

NP APPENDIX 3:
NEWSPAPERS CARRYING
***AMERICAN PROFILE* SUPPLEMENT**

NEWSPAPERS CARRYING AMERICAN PROFILE SUPPLEMENT

NEWSPAPERS CARRYING AMERICAN PROFILE SUPPLEMENT			
State	Primary Market	Newspaper Name	Circulation
AL	Albertville	<i>The Sand Mountain Reporter</i>	10,000
AL	Alexander City	<i>The Dadeville Times</i>	1,583
AL	Alexander City	<i>The Outlook</i>	4,100
AL	Andalusia	<i>The Andalusia Star-News</i>	4,431
AL	Athens	<i>The Athens News Courier</i>	7,300
AL	Atmore	<i>The Atmore Advance</i>	3,200
AL	Bay Minette	<i>The Baldwin Times</i>	1,150
AL	Brewton	<i>The Brewton Standard</i>	3,000
AL	Centre	<i>Cherokee County Herald</i>	2,437
AL	Cullman	<i>The Cullman Times</i>	11,000
AL	Daphne	<i>The Bulletin</i>	1,150
AL	Demopolis	<i>The Demopolis Times</i>	6,000
AL	Dothan	<i>The Dothan Eagle</i>	35,700
AL	Eufaula	<i>The Eufaula Tribune</i>	5,582
AL	Fairhope	<i>Fairhope Courier</i>	1,150
AL	Fayette	<i>The Times-Record</i>	5,000
AL	Fayette	<i>Pickens County Herald</i>	5,000
AL	Foley	<i>Elberta-Lillian Ledger</i>	1,125
AL	Foley	<i>The Foley Onlooker</i>	1,150
AL	Fort Payne	<i>The Times-Journal</i>	6,467
AL	Gardendale	<i>North Jefferson News</i>	3,482
AL	Gulf Shores	<i>The Islander</i>	1,125
AL	Jasper	<i>Daily Mountain Eagle</i>	11,044
AL	Leeds	<i>The Leeds News</i>	2,288
AL	Opelika	<i>Opelika-Auburn News</i>	14,800
AL	Ozark	<i>The Southern Star</i>	4,060
AL	Pell City	<i>St. Clair News-Aegis</i>	2,786
AL	Robertsdale	<i>The Independent</i>	1,150
AL	Scottsboro	<i>The Daily Sentinel</i>	5,074
AL	Tallassee	<i>The Tallassee Tribune</i>	3,000
AL	Troy	<i>The Messenger</i>	3,349
AL	Wetumpka	<i>The Eclectic Observer</i>	2,000
AL	Wetumpka	<i>The Wetumpka Herald</i>	4,600
AR	Ashdown	<i>Little River News</i>	3,045
AR	Atkins	<i>Atkins Chronicle</i>	2,000
AR	Atkins	<i>The Dover Times</i>	1,948

AR	Batesville	<i>Batesville Daily Guard</i>	10,149
AR	Benton	<i>The Benton Courier</i>	8,119
AR	Bentonville	<i>The Weekly Vista</i>	4,466
AR	Berryville	<i>Carroll County News</i>	3,100
AR	Booneville	<i>Booneville Democrat</i>	2,874
AR	Charleston	<i>Charleston Express</i>	1,916
AR	Cherokee Village	<i>The Villager Journal</i>	2,985
AR	Conway	<i>Log Cabin Democrat</i>	11,164
AR	Danville	<i>Yell County Record</i>	3,552
AR	Greenwood	<i>Greenwood Democrat</i>	1,421
AR	Harrison	<i>Newton County Times</i>	1,500
AR	Heber Springs	<i>Cleburne County Sun-Times</i>	4,975
AR	Helena	<i>Helena-West Helena Daily World</i>	4,050
AR	Hope	<i>Hope Star</i>	3,045
AR	Hope	<i>The Daily Siftings Herald</i>	3,045
AR	Malvern	<i>Malvern Daily Record</i>	4,377
AR	Manila	<i>Northeast Arkansas Town Crier</i>	2,100
AR	Mountain View	<i>Stone County Leader</i>	4,263
AR	Nashville	<i>Nashville News</i>	3,000
AR	Newport	<i>Newport Independent</i>	2,239
AR	Osceola	<i>The Osceola Times</i>	2,537
AR	Paris	<i>Paris Express</i>	2,792
AR	Piggott	<i>Piggott Times</i>	2,100
AR	Rector	<i>Clay County Democrat</i>	1,400
AR	Salem	<i>Alma Journal</i>	750
AR	Salem	<i>The News</i>	3,349
AR	Stuttgart	<i>Daily Leader</i>	2,985
AR	Trumann	<i>Poinsett County Democrat Tribune</i>	1,800
AR	Van Buren	<i>Van Buren Press Argus-Courier</i>	3,000
AR	West Memphis	<i>Evening Times</i>	8,627
AR	White Hall	<i>The White Hall Journal</i>	2,350
AZ	Benson	<i>San Pedro Valley News-Sun</i>	3,045
AZ	Bullhead City	<i>Mohave Valley Daily News</i>	9,134
AZ	Cottonwood	<i>The Bugle</i>	2,500
AZ	Cottonwood	<i>The Verde Independent</i>	2,574
AZ	Douglas	<i>The Daily Dispatch</i>	4,080
AZ	Globe	<i>Arizona Silver Belt</i>	3,500
AZ	Green Valley	<i>Green Valley News & Sun</i>	10,200
AZ	Green Valley	<i>The Sahuarita News and Sun</i>	6,630
AZ	Holbrook	<i>Holbrook Tribune-News</i>	2,290
AZ	Kingman	<i>The Kingman Daily Miner</i>	8,525

AZ	Lake Havasu City	<i>Lake Havasu Today's News-Herald</i>	11,000
AZ	Mesa	<i>Chandler Tribune/East Valley Tribune</i>	98,000
AZ	Parker	<i>Parker Pioneer</i>	5,000
AZ	Phoenix	<i>Ahwatukee Foothills News</i>	28,280
AZ	Prescott	<i>The Prescott Daily Courier</i>	15,750
AZ	Safford	<i>Eastern Arizona Courier</i>	6,900
AZ	Sedona	<i>Sedona Red Rock News</i>	6,000
AZ	Show Low	<i>White Mountain Independent</i>	10,000
AZ	Sierra Vista	<i>Sierra Vista Herald</i>	10,710
AZ	Sun City	<i>Sun City News-Sun</i>	12,444
AZ	Sun City	<i>Glendale-Peoria Today</i>	34,170
AZ	Sun City	<i>Surprise Today</i>	40,290
AZ	Wickenburg	<i>Wickenburg Sun</i>	2,537
AZ	Willcox	<i>Arizona Range News</i>	3,146
AZ	Williams	<i>Williams-Grand Canyon News</i>	3,482
CA	Altaville	<i>The Sierra Sentinel</i>	1,000
CA	Blythe	<i>Palo Verde Valley Times/Quartzsite Times</i>	4,060
CA	Burney	<i>Intermountain News</i>	1,050
CA	Chester	<i>Chester Progressive</i>	2,440
CA	Chico	<i>Chico Enterprise-Record</i>	28,000
CA	El Centro	<i>Imperial Valley Press</i>	11,500
CA	Escalon	<i>Escalon Times</i>	1,800
CA	Eureka	<i>Eureka Times Standard</i>	19,500
CA	Exeter	<i>The Exeter Sun/The Foothills Sun Gazette</i>	3,000
CA	Fairfield	<i>Daily Republic</i>	18,805
CA	Fort Bragg	<i>Fort Bragg Advocate News</i>	5,074
CA	Gilroy	<i>The Dispatch</i>	4,432
CA	Grass Valley	<i>The Union</i>	17,000
CA	Greenville	<i>Indian Valley Record</i>	1,498
CA	Gridley	<i>The Gridley Herald</i>	2,500
CA	Hollister	<i>Free Lance</i>	3,542
CA	Holtville	<i>Holtville Tribune</i>	3,045
CA	Holtville	<i>Calexico Chronicle</i>	1,287
CA	Holtville	<i>Imperial Valley Weekly</i>	1,250
CA	Inyo	<i>Inyo Register</i>	4,872
CA	Jackson	<i>Amador Ledger-Dispatch</i>	7,600
CA	Kingsburg	<i>Kingsburg Recorder</i>	2,500
CA	Lakeport	<i>Lake County Record Bee</i>	9,134
CA	Manteca	<i>The Manteca Bulletin</i>	6,716

CA	Monterey	<i>The Monterey County Herald</i>	29,250
CA	Monterey	<i>Salinas Valley Weekly</i>	35,700
CA	Morgan Hill	<i>Morgan Hill Times</i>	3,266
CA	Mount Shasta	<i>Mount Shasta Herald</i>	4,872
CA	Napa	<i>The Napa Valley Register</i>	14,300
CA	Oakdale	<i>Oakdale Leader</i>	5,074
CA	Palmdale	<i>Palmdale Antelope Valley Press</i>	23,460
CA	Paradise	<i>Paradise Post</i>	8,119
CA	Placerville	<i>Mountain Democrat</i>	14,527
CA	Porterville	<i>The Porterville Recorder</i>	10,149
CA	Portola	<i>Portola Reporter</i>	2,475
CA	Quincy	<i>Feather River Bulletin</i>	3,330
CA	Red Bluff	<i>Red Bluff Daily News</i>	8,119
CA	Ridgecrest	<i>The Daily Independent</i>	8,119
CA	Riverbank	<i>The Riverbank News</i>	1,284
CA	San Diego	<i>The San Diego Union-Tribune</i>	254,900
CA	Santa Clarita	<i>The Signal</i>	13,194
CA	Selma	<i>Selma Enterprise</i>	3,000
CA	Shasta Lake	<i>Shasta Lake Bulletin</i>	1,050
CA	Sonora	<i>The Union Democrat</i>	12,800
CA	South Lake Tahoe	<i>Tahoe Daily Tribune</i>	8,119
CA	Susanville	<i>Lassen County Times</i>	8,600
CA	Susanville	<i>Westwood Pinepress</i>	1,245
CA	Taft	<i>Daily Midway Driller</i>	3,045
CA	Truckee	<i>Sierra Sun</i>	7,720
CA	Turlock	<i>Turlock Journal</i>	3,980
CA	Twentynine Palms	<i>The Desert Trail</i>	3,500
CA	Ukiah	<i>Ukiah Daily Journal</i>	7,815
CA	Vacaville	<i>Vacaville Reporter</i>	20,298
CA	Vallejo	<i>Vallejo Times Herald</i>	22,328
CA	Valley Springs	<i>The Valley Springs News</i>	1,000
CA	Victorville	<i>Press-Dispatch</i>	38,566
CA	Visalia	<i>Visalia Times-Delta/Tulare Advance-Register</i>	24,000
CA	Willits	<i>The Willits News</i>	2,842
CA	Woodland	<i>Woodland Daily Democrat</i>	10,352
CA	Yreka	<i>Siskiyou Daily News</i>	5,886
CA	Yucca Valley	<i>Hi-Desert Star</i>	7,000
CO	Akron	<i>Akron News-Reporter</i>	1,450
CO	Brush	<i>Brush News-Tribune</i>	900
CO	Canon City	<i>Canon City Daily Record</i>	8,000

CO	Craig	<i>Craig Daily Press</i>	9,200
CO	Estes Park	<i>Estes Park Trail-Gazette</i>	3,900
CO	Fort Morgan	<i>Fort Morgan Times</i>	3,360
CO	Fowler	<i>The Fowler Tribune</i>	1,000
CO	Greeley	<i>The Greeley Tribune</i>	21,000
CO	Julesburg	<i>Julesburg Advocate</i>	1,343
CO	La Junta	<i>La Junta Tribune Democrat</i>	3,000
CO	Lafayette	<i>Lafayette News</i>	2,000
CO	Las Animas	<i>Bent County Democrat</i>	1,500
CO	Longmont	<i>Longmont Times-Call</i>	21,500
CO	Louisville	<i>Louisville Times</i>	2,000
CO	Loveland	<i>Loveland Reporter-Herald</i>	18,500
CO	Steamboat Springs	<i>Steamboat Pilot</i>	3,500
CO	Steamboat Springs	<i>Steamboat Today</i>	3,500
CO	Sterling	<i>Journal Advocate</i>	4,500
CT	Manchester	<i>Manchester Journal Inquirer</i>	45,000
CT	Norwalk	<i>The Hour</i>	16,746
CT	Willimantic	<i>The Chronicle</i>	7,000
DE	Newark	<i>Newark Post</i>	4,000
FL	Bartow	<i>The Polk County Democrat</i>	3,500
FL	Brooksville	<i>Hernando Today</i>	13,500
FL	Charlotte Harbor	<i>Sun Newspapers</i>	11,000
FL	Chiefland	<i>Chiefland Citizen</i>	4,378
FL	Crawfordville	<i>The Wakulla News</i>	6,000
FL	Crescent City	<i>Courier Journal</i>	2,700
FL	Cross City	<i>Dixie County Advocate</i>	4,570
FL	Dunnellon	<i>Riverland News</i>	2,800
FL	Fort Meade	<i>The Fort Meade Leader</i>	2,500
FL	Frostproof	<i>Frostproof News</i>	3,000
FL	Jacksonville	<i>The Florida Times-Union</i>	140,000
FL	Kissimmee	<i>Osceola News-Gazette</i>	40,000
FL	Lake Placid	<i>Lake Placid Journal</i>	3,000
FL	Lake Wales	<i>Lake Wales News</i>	4,500
FL	Live Oak	<i>Suwanne Democrat</i>	6,350
FL	Madison	<i>The Madison Enterprise-Recorder</i>	3,451
FL	Marianna	<i>Jackson County Floridan</i>	7,307
FL	Quincy	<i>Gadsden County Times</i>	6,000
FL	Sebring	<i>Highlands Today</i>	25,372
FL	St. Augustine	<i>The St. Augustine Record</i>	21,560
FL	The Villages	<i>The Villages Sun</i>	50,000
FL	Venice	<i>Hardee Sun</i>	3,000

FL	Venice	<i>Venice Gondolier Sun</i>	8,500
FL	Wauchula	<i>The Herald Advocate</i>	4,567
GA	Athens	<i>Athens Banner Herald</i>	22,000
GA	Augusta	<i>The Augusta Chronicle</i>	50,000
GA	Augusta	<i>North Augusta Today</i>	12,000
GA	Bainbridge	<i>The Post Searchlight</i>	7,650
GA	Blakely	<i>Early County News</i>	2,786
GA	Brunswick	<i>The Brunswick News</i>	16,200
GA	Cairo	<i>The Cairo Messenger</i>	4,973
GA	Calhoun	<i>Calhoun Times</i>	7,021
GA	Cartersville	<i>The Daily Tribune News</i>	7,200
GA	Clayton	<i>The Clayton Tribune</i>	7,900
GA	Covington	<i>The Covington News</i>	6,089
GA	Cumming	<i>Forsyth County News</i>	15,300
GA	Dalton	<i>The Daily Citizen</i>	12,250
GA	Dawsonville	<i>Dawson Community News</i>	4,000
GA	Eatonton	<i>The Eatonton Messenger</i>	4,905
GA	Forsyth	<i>The Monroe County Reporter</i>	4,477
GA	Gray	<i>The Jones County News</i>	4,060
GA	Griffin	<i>Griffin Daily News</i>	8,500
GA	Hawkinsville	<i>Hawkinsville Dispatch & News</i>	2,800
GA	Jesup	<i>The Press-Sentinel</i>	6,500
GA	Lafayette	<i>Walker County & Catoosa County News</i>	6,160
GA	LaGrange	<i>LaGrange Daily News</i>	9,743
GA	Louisville	<i>The News & Farmer</i>	4,200
GA	Milledgeville	<i>The Baldwin Bulletin</i>	3,248
GA	Monroe	<i>The Walton Tribune</i>	6,089
GA	Reidsville	<i>The Tattnall Journal</i>	2,487
GA	Rockmart	<i>Rockmart Journal and Cedartown Standard</i>	5,553
GA	Rome	<i>Rome News Tribune</i>	17,271
GA	Savannah	<i>Savannah Morning News</i>	43,000
GA	Statesboro	<i>The Statesboro Herald</i>	8,000
GA	Sylvania	<i>The Sylvania Telephone</i>	4,375
GA	Thomaston	<i>The Thomaston Times</i>	4,000
GA	Thomson	<i>McDuffie Mirror</i>	2,400
GA	Winder	<i>The Barrow County News</i>	7,700
IA	Adel	<i>Dallas County News</i>	1,100
IA	Adel	<i>Northeast Dallas County Record</i>	700
IA	Algona	<i>The Algona Upper Des Moines</i>	3,250
IA	Allison	<i>Butler County Tribune Journal</i>	1,400
IA	Atlantic	<i>Atlantic News-Telegraph</i>	3,552

IA	Audubon	<i>Audubon County Advocate Journal</i>	1,940
IA	Bedford	<i>The Bedford Times-Press</i>	1,000
IA	Boone	<i>Boone News-Republican</i>	2,850
IA	Britt	<i>The Britt News Tribune</i>	1,542
IA	Burlington	<i>The Hawk Eye</i>	21,313
IA	Carroll	<i>Daily Times Herald</i>	5,700
IA	Cascade	<i>Cascade Pioneer</i>	1,475
IA	Centerville	<i>Daily Iowegian</i>	3,146
IA	Cherokee	<i>Chronicle Times</i>	2,579
IA	Clarinda	<i>Clarinda Herald-Journal</i>	1,200
IA	Clarksville	<i>Clarksville Star</i>	1,150
IA	Clinton	<i>Clinton Herald</i>	11,900
IA	Corwith	<i>CWL Times</i>	1,000
IA	Council Bluffs	<i>The Daily Nonpareil</i>	17,000
IA	Creston	<i>Creston News Advertiser</i>	4,600
IA	Denison	<i>Denison Review</i>	1,000
IA	Dows	<i>Dows Advocate</i>	1,000
IA	Dyersville	<i>Dyersville Commercial</i>	3,383
IA	Eagle Grove	<i>Eagle Grove Eagle</i>	1,670
IA	Fairfield	<i>The Fairfield Daily Ledger</i>	3,298
IA	Forest City	<i>Forest City Summit</i>	2,898
IA	Fort Madison	<i>Fort Madison Daily Democrat</i>	5,000
IA	Freemont	<i>Village Vine</i>	500
IA	Garner	<i>Garner Leader & Signal</i>	1,500
IA	Grundy Grove	<i>The Grundy Register</i>	2,200
IA	Hamburg	<i>Hamburg Reporter</i>	1,244
IA	Hampton	<i>Calhoun County Advocate</i>	1,200
IA	Hampton	<i>Hampton Chronicle</i>	2,930
IA	Hampton	<i>Pioneer Enterprise</i>	700
IA	Harlan	<i>Harlan News-Advertiser</i>	3,000
IA	Hawarden	<i>The Independent/Examiner</i>	1,045
IA	Hull	<i>Sioux County Index-Reporter</i>	1,029
IA	Ida Grove	<i>Ida County Courier</i>	2,842
IA	Inwood	<i>West Lyon Herald</i>	1,031
IA	Kalona	<i>The Kalona News</i>	2,000
IA	Kalona	<i>The Lone Tree Reporter</i>	1,000
IA	Keokuk	<i>Daily Gate City</i>	5,000
IA	Keota	<i>Keota Eagle</i>	1,000
IA	Knoxville	<i>Journal Express</i>	2,139
IA	Lake City	<i>Lake City Graphic</i>	1,000
IA	Le Mars	<i>Le Mars Daily Sentinel</i>	2,800

IA	Logan	<i>Logan Herald-Observer</i>	1,000
IA	Mason City	<i>Mason City Globe Gazette</i>	18,500
IA	Mount Pleasant	<i>Mt. Pleasant News</i>	2,994
IA	New Sharon	<i>New Sharon Sun</i>	950
IA	Newton	<i>Newton Daily News</i>	5,100
IA	Osage	<i>Mitchell County Press News</i>	3,045
IA	Osceola	<i>Osceola Sentinel-Tribune</i>	3,200
IA	Oskaloosa	<i>Oskaloosa Herald</i>	3,200
IA	Ottumwa	<i>The Ottumwa Courier</i>	14,900
IA	Pella	<i>The Chronicle</i>	2,139
IA	Rock Rapids	<i>Lyon County Reporter</i>	1,929
IA	Sheffield	<i>Sheffield Press</i>	900
IA	Shenandoah	<i>Valley News Today</i>	2,000
IA	Sigourney	<i>Sigourney News Review</i>	2,000
IA	Sioux City	<i>Sioux City Journal</i>	45,670
IA	Spencer	<i>The Daily Reporter</i>	3,781
IA	Spirit Lake	<i>Dickinson County News</i>	3,084
IA	Storm Lake	<i>Pilot Tribune</i>	2,786
IA	Story City	<i>The Story City Herald</i>	1,800
IA	Tipton	<i>The Tipton Conservative and Advertiser</i>	4,000
IA	Washington	<i>The Washington Evening Journal</i>	3,820
IA	West Branch	<i>West Branch Times</i>	1,500
IA	West Liberty	<i>The West Liberty Index</i>	1,037
IA	What Cheer	<i>What Cheer Paper</i>	1,300
IA	Woodbine	<i>The Woodbine Twiner</i>	900
ID	Aberdeen	<i>The Aberdeen Times</i>	900
ID	American Falls	<i>Power County Press</i>	1,900
ID	Blackfoot	<i>The Morning News</i>	3,980
ID	Coeur d'Alene	<i>Coeur d'Alene Press</i>	21,800
ID	Driggs	<i>Teton Valley News</i>	2,700
ID	Grangeville	<i>Idaho County Free Press</i>	2,400
ID	Kellogg	<i>Shoshone News-Press</i>	4,200
ID	Moscow	<i>The Moscow-Pullman Daily News</i>	7,104
ID	Mt. Home	<i>Mountain Home News</i>	4,060
ID	Payette	<i>Independent Enterprise</i>	1,700
ID	Preston	<i>The Preston Citizen</i>	2,288
ID	Priest River	<i>Priest River Times</i>	2,800
ID	Rexburg	<i>Rexburg Standard Journal</i>	5,472
ID	Sandpoint	<i>Bonner County Daily Bee</i>	5,200
ID	Sandpoint	<i>Bonnerr Ferry Herald</i>	3,551
IL	Aledo	<i>The Times Record</i>	3,451

IL	Alton	<i>The Alton Telegraph</i>	22,200
IL	Benton	<i>Benton Evening News</i>	2,500
IL	Canton	<i>The Daily Ledger</i>	5,582
IL	Carbondale	<i>The Carbondale Southern Illinoisan</i>	28,925
IL	Chester	<i>Randolph County Herald-Tribune</i>	2,487
IL	Christopher	<i>The Progress</i>	1,000
IL	Crystal Lake	<i>The Northwest Herald</i>	32,000
IL	Crystal Lake	<i>Lake County Journals</i>	8,150
IL	DeKalb	<i>The Daily Chronicle</i>	8,300
IL	Du Quoin	<i>Du Quoin Evening Call</i>	3,857
IL	Effingham	<i>Effingham Daily News</i>	11,500
IL	Fairbury	<i>The Blade</i>	2,139
IL	Flora	<i>The Clay County Advocate-Press</i>	2,139
IL	Freeport	<i>The Freeport Journal-Standard</i>	14,209
IL	Galesburg	<i>The Paper</i>	18,268
IL	Geneseo	<i>Geneseo Republic</i>	5,920
IL	Geneva	<i>Kane County Chronicle</i>	8,100
IL	Harrisburg	<i>The Daily Register</i>	6,191
IL	Herrin	<i>The Spokesman</i>	2,040
IL	Hillsboro	<i>The Journal News</i>	5,900
IL	Jacksonville	<i>Jacksonville Journal Courier</i>	14,925
IL	Kankakee	<i>The Daily Journal</i>	26,340
IL	Kewanee	<i>Kewanee Star Courier</i>	5,988
IL	La Salle	<i>La Salle News Tribune</i>	19,000
IL	Lena	<i>Northwestern Illinois Farmers</i>	1,600
IL	Lincoln	<i>The Courier</i>	7,003
IL	Loves Park	<i>Rock Valley Publishing</i>	1,600
IL	Machesney Park	<i>Elmhurst Independent</i>	6,400
IL	Macomb	<i>The Macomb Journal</i>	4,179
IL	Marion	<i>The Marion Daily Republican</i>	3,045
IL	Metamora	<i>Metamora Herald</i>	1,000
IL	Metropolis	<i>Metropolis Planet</i>	4,872
IL	Moline	<i>The Dispatch</i>	42,000
IL	Monmouth	<i>Monmouth Review Atlas</i>	1,537
IL	Morris	<i>Morris Daily Herald</i>	7,600
IL	Mount Carmel	<i>Daily Republican-Register</i>	4,060
IL	Murphysboro	<i>Murphysboro American</i>	1,841
IL	Newton	<i>Newton Press-Mentor</i>	2,239
IL	Olney	<i>Olney Daily Mail</i>	4,060
IL	Oquawka	<i>Oquawka Current</i>	1,000
IL	Ottawa	<i>The Ottawa Times</i>	15,000

IL	Palos Heights	<i>The Regional News</i>	3,300
IL	Paris	<i>Paris - Beacon News</i>	5,582
IL	Pekin	<i>Pekin Daily Times</i>	10,000
IL	Peoria	<i>Chillicothe Times-Bulletin</i>	2,400
IL	Peoria	<i>East Peoria Times-Courier</i>	2,300
IL	Peoria	<i>Morton Times-News</i>	3,000
IL	Peoria	<i>Washington Times-Reporter</i>	7,207
IL	Pontiac	<i>The Daily Leader</i>	4,466
IL	Rockford	<i>Rockford Register Star</i>	46,750
IL	Rushville	<i>The Rushville Times</i>	3,045
IL	Salem	<i>Salem Times Commoner</i>	4,060
IL	Shawneetown	<i>The Gallatin Democrat</i>	2,239
IL	Shelbyville	<i>Shelbyville Daily Union</i>	2,800
IL	Sterling	<i>Sauk Valley Newspaper</i>	21,730
IL	Taylorville	<i>Breeze Courier</i>	6,000
IL	Vandalia	<i>Leader-Union</i>	5,176
IL	West Frankfort	<i>The Daily American</i>	3,045
IL	Zion	<i>Zion Benton News/Bargaineer</i>	22,000
IN	Batesville	<i>The Herald Tribune</i>	3,150
IN	Bedford	<i>The Bedford Times Mail</i>	11,300
IN	Bloomington	<i>The Herald Times</i>	23,600
IN	Boonville	<i>Boonville Standard</i>	4,060
IN	Brazil	<i>Brazil Times</i>	4,179
IN	Bremen	<i>The Bremen Enquirer</i>	800
IN	Columbia City	<i>The Post & Mail</i>	3,500
IN	Culver	<i>The Culver Citizen</i>	500
IN	Decatur	<i>Decatur Daily Democrat</i>	5,650
IN	French Lick	<i>Springs Valley Herald</i>	2,842
IN	Greencastle	<i>Banner-Graphic</i>	5,572
IN	Greensburg	<i>Greensburg Daily News</i>	5,200
IN	Hope	<i>The Hope Star-Journal</i>	1,000
IN	Kendallville	<i>The News-Sun</i>	20,300
IN	Knox	<i>The Leader</i>	430
IN	La Porte	<i>The La Porte Herald Argus</i>	13,930
IN	Lawrenceburg	<i>Journal Press</i>	6,368
IN	Lebanon	<i>The Lebanon Reporter</i>	5,100
IN	Linton	<i>The Daily World</i>	5,582
IN	Madison	<i>The Madison Courier</i>	9,300
IN	Martinsville	<i>The Reporter-Times</i>	5,500
IN	Mooreville	<i>The Mooreville-Decatur Times</i>	5,000
IN	Nappanee	<i>Nappanee Advance News</i>	500

IN	North Vernon	<i>North Vernon Plain Dealer</i>	6,169
IN	Paoli	<i>Paoli Republican</i>	3,248
IN	Plymouth	<i>Pilot News</i>	5,870
IN	Plymouth	<i>Bourbon News-Mirror</i>	900
IN	Portland	<i>The Commercial Review</i>	4,480
IN	Princeton	<i>Princeton Daily Clarion</i>	6,544
IN	Rochester	<i>The Rochester Sentinel</i>	4,100
IN	Rushville	<i>Rushville Republican</i>	3,050
IN	Seymour	<i>The Seymour Tribune</i>	8,000
IN	Shoals	<i>The Shoals News</i>	2,438
IN	Versailles	<i>The Versailles Republican</i>	4,567
IN	Washington	<i>The Washington Times-Herald</i>	7,000
IN	Winchester	<i>The News-Gazette</i>	3,146
KS	Atchison	<i>Atchison Daily Globe</i>	3,800
KS	Augusta	<i>Augusta Daily Gazette</i>	2,288
KS	Baxter Springs	<i>Baxter Springs News</i>	1,600
KS	Belleville	<i>The Belleville Telescope</i>	2,500
KS	Chanute	<i>The Chanute Tribune</i>	3,880
KS	Columbus	<i>The Columbus Advocate</i>	2,200
KS	El Dorado	<i>The El Dorado Times</i>	3,482
KS	Ellsworth	<i>Ellsworth County Independent-Reporter</i>	2,736
KS	Eureka	<i>The Eureka Herald</i>	2,040
KS	Goodland	<i>The Goodland Daily News</i>	1,950
KS	Hays	<i>The Hays Daily News</i>	10,400
KS	Herington	<i>The Herington Times</i>	2,089
KS	Hiawatha	<i>Hiawatha World</i>	2,500
KS	Holton	<i>The Holton Recorder</i>	3,700
KS	Hutchinson	<i>The Hutchinson News</i>	30,750
KS	Junction City	<i>The Daily Union</i>	4,400
KS	Lawrence	<i>Lawrence Journal-World</i>	21,000
KS	Liberal	<i>Southwest Daily Times</i>	5,000
KS	Louisburg	<i>Louisburg Herald</i>	1,700
KS	McPherson	<i>McPherson Sentinel</i>	4,577
KS	Norton	<i>The Norton Telegram</i>	1,900
KS	Oberlin	<i>Bird City Times</i>	551
KS	Oberlin	<i>Colby Free Press</i>	1,950
KS	Oberlin	<i>The Oberlin Herald</i>	1,850
KS	Oberlin	<i>The St. Francis Herald</i>	1,250
KS	Osawatimie	<i>Osawatimie Graphic</i>	1,975
KS	Oskaloosa	<i>The Oskaloosa Independent</i>	2,338
KS	Ottawa	<i>The Ottawa Herald</i>	5,587

KS	Overland Park	<i>Johnson County Sun</i>	27,000
KS	Overland Park	<i>Wednesday Sun</i>	20,000
KS	Paola	<i>The Miami County Republic</i>	3,550
KS	Parsons	<i>Parsons Sun</i>	4,800
KS	Pittsburgh	<i>Pittsburg Morning Sun</i>	8,000
KS	Pratt	<i>The Pratt Tribune</i>	2,040
KS	Salina	<i>The Salina Journal</i>	30,000
KS	Shawnee	<i>The Shawnee Dispatch</i>	21,000
KS	Stockton	<i>Stockton Sentinel</i>	1,443
KS	Topeka	<i>The Topeka Capital-Journal</i>	42,000
KS	Valley Falls	<i>The Vindicator</i>	2,740
KS	Wellington	<i>Wellington Daily News</i>	2,600
KY	Bardstown	<i>Kentucky Standard</i>	9,700
KY	Benton	<i>The Tribune Courier</i>	4,700
KY	Bowling Green	<i>Daily News</i>	19,100
KY	Brownsville	<i>Edmonson News</i>	4,079
KY	Cadiz	<i>The Cadiz Record</i>	4,060
KY	Corbin	<i>Corbin Times-Tribune</i>	8,119
KY	Danville	<i>The Advocate Messenger</i>	9,000
KY	Eddyville	<i>Lyon County Herald-Ledger</i>	2,040
KY	Falmouth	<i>The Falmouth Outlook</i>	4,060
KY	Flemingsburg	<i>Flemingsburg Gazette</i>	2,500
KY	Frankfort	<i>The State Journal</i>	9,000
KY	Fulton	<i>The Fulton Leader</i>	1,800
KY	Georgetown	<i>Georgetown News Graphic</i>	4,200
KY	Greenup	<i>Greenup County News-Times</i>	2,537
KY	Hazard	<i>Hazard Herald</i>	5,300
KY	Hopkinsville	<i>Kentucky New Era</i>	10,500
KY	Hopkinsville	<i>Fort Campbell Courier</i>	18,000
KY	Leitchfield	<i>Grayson County News-Gazette</i>	3,000
KY	Liberty	<i>Casey County News</i>	4,776
KY	London	<i>The London Sentinel-Echo</i>	7,960
KY	Middlesboro	<i>Middlesboro Daily News</i>	6,597
KY	Monticello	<i>The Wayne County Outlook</i>	6,089
KY	Morganfield	<i>Union County Advocate</i>	4,000
KY	New Castle	<i>Henry County Local</i>	4,975
KY	Nicholasville	<i>The Jessamine Journal</i>	7,263
KY	Oak Grove	<i>The Eagle Post</i>	5,400
KY	Pikeville	<i>Appalachian News Express</i>	6,766
KY	Prestonsburg	<i>The Floyd County Times</i>	6,574
KY	Princeton	<i>The Times-Leader</i>	5,100

KY	Russellville	<i>News Democrat & Leader</i>	3,000
KY	Shepherdsville	<i>The Pioneer News</i>	8,789
KY	Taylorsville	<i>Taylorsville Spencer Magnet</i>	3,654
KY	Whitley City	<i>The McCreary County Record</i>	3,645
KY	Winchester	<i>The Winchester Sun</i>	5,800
LA	Bastrop	<i>Bastrop Daily Enterprise</i>	4,567
LA	Belle Chasse	<i>The Plaquemines Watchman</i>	5,700
LA	Bogalusa	<i>Daily News</i>	3,383
LA	Bossier City	<i>Bossier Press-Tribune</i>	4,770
LA	Covington	<i>St. Tammany News</i>	9,950
LA	DeRidder	<i>Beauregard Daily News</i>	3,500
LA	Gonzales	<i>Ascension Citizen</i>	7,164
LA	Jena	<i>The Jena-Times</i>	4,975
LA	La Place	<i>L'Observateur</i>	5,100
LA	Leesville	<i>Leesville News Leader</i>	3,500
LA	Minden	<i>Minden Press-Herald</i>	5,074
LA	Sulphur	<i>Southwest Daily News</i>	4,000
MA	Attleboro	<i>The Sun Chronicle</i>	25,372
MA	Greenfield	<i>The Recorder</i>	15,422
MA	North Adams	<i>North Adams Transcript</i>	8,627
MA	North Reading	<i>The Lynnfield Villager</i>	1,600
MA	North Reading	<i>North Reading Transcript</i>	4,500
MD	Annapolis	<i>The Capital</i>	30,845
MD	Cambridge	<i>Dorchester Star</i>	10,000
MD	Centreville	<i>The Record-Observer</i>	3,349
MD	Chestertown	<i>Kent County News</i>	7,000
MD	Denton	<i>The Times Record</i>	3,349
MD	Easton	<i>The Star Democrat</i>	19,791
MD	Elkton	<i>Cecil Whig</i>	15,000
MD	Essex	<i>The Avenue News</i>	25,000
MD	Frederick	<i>The Frederick News-Post</i>	37,000
MD	Stevensville	<i>The Bay Times</i>	5,074
MD	Westminster	<i>Carroll County Times</i>	24,000
ME	Bangor	<i>Bangor Daily News</i>	56,000
ME	Lewiston	<i>Sun Journal</i>	36,500
ME	Portland	<i>Portland Press Herald</i>	76,500
MI	Big Rapids	<i>Big Rapids Pioneer</i>	6,000
MI	Cadillac	<i>Cadillac News</i>	8,000
MI	Caro	<i>Tuscola County Advertiser</i>	6,467
MI	Cheboygan	<i>Cheboygan Daily Tribune</i>	4,364
MI	Coldwater	<i>The Daily Reporter</i>	5,937

MI	Hart	<i>Oceana's Herald-Journal</i>	6,800
MI	Hillsdale	<i>The Hillsdale Daily News</i>	6,500
MI	Holland	<i>The Holland Sentinel</i>	18,400
MI	Howell	<i>Livingston County Daily Press & Argus</i>	15,500
MI	Ionia	<i>Sentinel-Standard</i>	3,146
MI	Ironwood	<i>Daily Globe</i>	6,597
MI	Lapeer	<i>The Lapeer County Press</i>	9,600
MI	Livonia	<i>Canton Observer</i>	11,000
MI	Livonia	<i>Garden City Observer</i>	11,000
MI	Livonia	<i>Livonia Observer</i>	8,500
MI	Livonia	<i>Plymouth Observer</i>	9,500
MI	Livonia	<i>Rochester Eccentric</i>	9,640
MI	Livonia	<i>Westland Observer</i>	8,500
MI	Ludington	<i>Ludington Daily News</i>	9,500
MI	Manistee	<i>Manistee News-Advocate</i>	5,000
MI	Milford	<i>Milford Times</i>	5,074
MI	Munising	<i>The Munising News</i>	1,900
MI	Northville	<i>Northville Record</i>	5,074
MI	Northville	<i>Novi News</i>	4,872
MI	Rogers City	<i>Onaway Outlook</i>	2,537
MI	Rogers City	<i>Presque Isle County Advance</i>	4,161
MI	Sault Ste. Marie	<i>The Evening News</i>	7,612
MI	South Lyon	<i>South Lyon Herald</i>	5,785
MI	Sturgis	<i>Sturgis Journal</i>	6,800
MI	Tecumseh	<i>The Tecumseh Herald</i>	4,800
MI	Three Rivers	<i>Three Rivers Commercial News</i>	3,552
MI	Whitehall	<i>White Lake Beacon</i>	4,600
MI	Ypsilanti	<i>Ypsilanti Courier</i>	2,537
MI	Zeeland	<i>The Zeeland Record</i>	1,542
MN	Aitkin	<i>Aitkin Independent Age</i>	4,350
MN	Bagley	<i>Farmers Independent</i>	2,040
MN	Baudette	<i>The Baudette Region</i>	1,393
MN	Brainerd	<i>Brainerd Daily Dispatch</i>	13,803
MN	Canby	<i>Canby News</i>	1,642
MN	Clarissa	<i>Independent News Herald</i>	2,000
MN	Cloquet	<i>The Pine Journal</i>	3,300
MN	Cloquet	<i>The Pine Knot</i>	1,450
MN	Cottonwood	<i>Tri-County News</i>	1,343
MN	Crookston	<i>Crookston Daily Times</i>	2,040
MN	Elbow Lake	<i>Grant County Herald</i>	1,600
MN	Faribault	<i>Faribault Daily News</i>	6,467

MN	Grand Rapids	<i>Grand Rapids Herald-Review</i>	7,624
MN	Granite Falls	<i>Granite Falls Advocate-Tribune</i>	2,689
MN	Hibbing	<i>The Hibbing Daily Tribune</i>	6,597
MN	Isle	<i>Mille Lacs Messenger</i>	4,450
MN	Montevideo	<i>Montevideo American News</i>	3,654
MN	Montgomery	<i>Montgomery Messenger</i>	1,900
MN	New Prague	<i>The New Prague Times</i>	4,250
MN	Owatonna	<i>Owatonna People's Press</i>	6,467
MN	Paynesville	<i>The Paynesville Press</i>	2,040
MN	Redwood Falls	<i>The Redwood Falls Gazette</i>	3,958
MN	Rochester	<i>Post-Bulletin</i>	47,700
MN	Sleepy Eye	<i>Sleepy Eye Herald-Dispatch</i>	2,000
MN	St. James	<i>St. James Plaindealer</i>	2,338
MN	St. Peter	<i>St. Peter Herald</i>	2,322
MN	Staples	<i>Staples World</i>	2,100
MN	Thief River Falls	<i>Thief River Falls Times</i>	4,477
MN	Virginia	<i>The Mesabi Daily News</i>	9,642
MN	Waseca	<i>Waseca County News</i>	3,371
MN	Westbrook	<i>Westbrook Sentinel-Tribune</i>	1,339
MN	Winona	<i>Winona Daily News</i>	11,000
MO	Aurora	<i>Aurora Advertiser</i>	3,045
MO	Bloomfield	<i>The North Stoddard Countian</i>	2,040
MO	Bolivar	<i>Bolivar Herald-Free Press</i>	5,500
MO	Boonville	<i>Boonville Daily News</i>	2,537
MO	Buffalo	<i>Buffalo Reflex</i>	5,950
MO	Camdenton	<i>Lake Sun Leader</i>	4,975
MO	Carthage	<i>The Carthage Press</i>	4,161
MO	Caruthersville	<i>Democrat-Argus</i>	2,040
MO	Concordia	<i>The Concordian</i>	2,835
MO	Dexter	<i>The Dexter Daily Statesman</i>	3,045
MO	Edina	<i>The Edina Sentinel</i>	1,741
MO	Fulton	<i>The Fulton Sun</i>	4,770
MO	Gladstone	<i>Liberty Tribune</i>	10,500
MO	Hannibal	<i>Hannibal Courier-Post</i>	8,457
MO	Hermitage	<i>The Index</i>	4,427
MO	Independence	<i>The Examiner</i>	10,000
MO	Kahoka	<i>The Media</i>	2,100
MO	Kearney	<i>The Kearney Courier</i>	3,000
MO	Kennett	<i>The Kennett Daily Dunklin Democrat</i>	3,654
MO	Kirksville	<i>Kirksville Daily Express</i>	6,368
MO	Lebanon	<i>The Lebanon Daily Record</i>	5,772

MO	Malden	<i>Delta News Citizen</i>	3,045
MO	Marble Hill	<i>The Banner Press</i>	4,263
MO	Marshfield	<i>The Marshfield Mall</i>	5,100
MO	Maryville	<i>Maryville Daily Forum</i>	2,600
MO	Mexico	<i>Mexico Ledger</i>	5,500
MO	Moberly	<i>Evening Democrat</i>	3,000
MO	Moberly	<i>Moberly Monitor-Index</i>	2,970
MO	Monett	<i>The Monett Times</i>	4,100
MO	Neosho	<i>Neosho Daily News</i>	4,466
MO	New Madrid	<i>The Weekly Record</i>	1,045
MO	Ozark	<i>Christian County Headliner</i>	5,300
MO	Palmyra	<i>Palmyra Spectator</i>	2,842
MO	Perrysville	<i>Perry County Republic-Monitor</i>	5,400
MO	Portageville	<i>Missourian-News</i>	1,741
MO	Republic	<i>Republic Monitor</i>	2,750
MO	Rogersville	<i>South County Mail</i>	1,625
MO	Rolla	<i>Rolla Daily News</i>	6,300
MO	Sedalia	<i>The Sedalia Democrat</i>	13,104
MO	Smithville	<i>The Smithville Lake Herald</i>	2,350
MO	St. Joseph	<i>St. Joseph News-Press</i>	30,000
MO	Steele	<i>The Steele Enterprise</i>	1,542
MO	Stockton	<i>Cedar County Republican</i>	3,700
MO	Thayer	<i>South Missourian-News</i>	1,642
MO	Warrensburg	<i>The Daily Star-Journal</i>	5,304
MO	Warrenton	<i>Warren County Record</i>	3,775
MO	Washington	<i>Washington Missourian</i>	16,525
MO	West Plains	<i>West Plains Daily Quill</i>	7,600
MS	Aberdeen	<i>The Monroe County Journal</i>	6,350
MS	Batesville	<i>Panola Partnership</i>	2,000
MS	Batesville	<i>The Panolian</i>	4,500
MS	Brandon	<i>Rankin County News</i>	8,119
MS	Clarksdale	<i>The Clarksdale Press Register</i>	3,150
MS	Cleveland	<i>Bolivar Commercial</i>	6,000
MS	Crystal Springs	<i>The Meteor</i>	2,600
MS	Fulton	<i>The Itawamba County Times</i>	3,250
MS	Grenada	<i>The Daily Star</i>	5,671
MS	Hazelhurst	<i>Copiah County Courier</i>	3,045
MS	Holly Springs	<i>The South Reporter</i>	5,200
MS	Kosciusko	<i>The Star-Herald</i>	5,074
MS	Laurel	<i>Laurel Leader-Call</i>	9,134
MS	Meridian	<i>The Meridian Star</i>	14,000

MS	Monticello	<i>Lawrence County Press</i>	1,300
MS	Morton	<i>Spirit of Morton</i>	1,045
MS	New Albany	<i>New Albany Gazette</i>	4,200
MS	Oxford	<i>The Oxford Eagle</i>	5,582
MS	Pontotoc	<i>The Pontotoc Progress</i>	5,250
MS	Senatobia	<i>The Democrat</i>	4,500
MS	Starkville	<i>Starkville Daily News</i>	5,970
MS	Tylertown	<i>The Tylertown Times</i>	2,388
MS	Vicksburg	<i>The Vicksburg Post</i>	14,500
MS	West Point	<i>Daily Times Leader</i>	3,980
MT	Big Timber	<i>The Big Timber Pioneer</i>	1,400
MT	Billings	<i>Billings Gazette</i>	43,000
MT	Chinook	<i>The Journal News-Opinion</i>	1,500
MT	Columbus	<i>Stillwater County News</i>	1,841
MT	Cut Bank	<i>Cut Bank Pioneer</i>	1,200
MT	Dillon	<i>Dillon Tribune Examiner</i>	2,438
MT	Forsyth	<i>The Independent Press</i>	1,343
MT	Glendive	<i>Ranger Review</i>	3,060
MT	Hardin	<i>Big Horn County New</i>	1,741
MT	Havre	<i>Havre Daily News</i>	4,263
MT	Helena	<i>Helena Independent Record</i>	14,716
MT	Kalispell	<i>Kalispell Daily Inter Lake</i>	17,609
MT	Lewistown	<i>Lewistown News-Argus</i>	3,333
MT	Libby	<i>The Western News</i>	3,248
MT	Livingston	<i>The Livingston Enterprise</i>	3,259
MT	Miles City	<i>Miles City Star</i>	3,408
MT	Red Lodge	<i>Carbon County News</i>	2,288
MT	Shelby	<i>Shelby Promoter</i>	1,800
MT	Townsend	<i>The Townsend Star</i>	2,040
MT	Valier	<i>The Valerian</i>	300
NC	Ahoskie	<i>Roanoke-Chowan News Herald</i>	10,352
NC	Albemarle	<i>Albemarle Stanley News & Press</i>	9,000
NC	Asheboro	<i>The Randolph Guide</i>	3,200
NC	Burgaw	<i>The Pender Chronicle</i>	2,985
NC	Burlington	<i>Burlington Times-News</i>	27,352
NC	Clemmons	<i>The Clemmons Courier</i>	2,200
NC	Clinton	<i>The Sampson Independent</i>	7,000
NC	Dunn	<i>The Daily Record</i>	9,500
NC	Durham	<i>The Herald Sun</i>	27,000
NC	Forest City	<i>The Daily Courier</i>	8,000
NC	Franklin	<i>The Franklin Press</i>	8,600

NC	Fremont	<i>Wayne-Wilson News Leader</i>	1,600
NC	Fuquay-Varina	<i>Holly Springs Sun</i>	8,800
NC	Garner	<i>Cleveland Post</i>	6,500
NC	Gastonia	<i>The Gastonia Gaston Gazette</i>	33,492
NC	Hayesville	<i>Clay County Progress</i>	4,000
NC	Henderson	<i>The Daily Dispatch</i>	8,000
NC	High Point	<i>The High Point Enterprise</i>	21,800
NC	Highlands	<i>The Highlander</i>	2,800
NC	Jacksonville	<i>The Jacksonville Daily News</i>	20,646
NC	Kannapolis	<i>Independent Tribune</i>	20,000
NC	Kinston	<i>The Kinston Free Press</i>	11,641
NC	LaGrange	<i>Weekly Gazette</i>	1,492
NC	Laurinburg	<i>The Laurinburg Exchange</i>	4,700
NC	Lenoir	<i>News-Topic</i>	8,800
NC	Lumberton	<i>The Robesonian</i>	13,000
NC	Marion	<i>The McDowell News</i>	7,200
NC	Marshville	<i>The Home News</i>	1,800
NC	Mocksville	<i>Davie County Enterprise-Record</i>	9,529
NC	Monroe	<i>The Enquirer-Journal</i>	7,500
NC	Morganton	<i>The News Herald</i>	11,400
NC	Mount Airy	<i>The Stokes News</i>	6,169
NC	Mount Olive	<i>Mount Olive Tribune</i>	3,600
NC	Mt. Airy	<i>Mt. Airy News</i>	10,961
NC	Murphy	<i>Cherokee Scout</i>	5,000
NC	Nashville	<i>The Nashville Graphic</i>	3,482
NC	New Bern	<i>The New Bern Sun Journal</i>	16,119
NC	Newton	<i>The Observer-News-Enterprise</i>	2,000
NC	Princeton	<i>Princeton News-Leader</i>	1,600
NC	Robbinsville	<i>Graham Star</i>	4,000
NC	Rockingham	<i>Richmond County Daily Journal</i>	9,751
NC	Roxboro	<i>The Courier-Times</i>	7,800
NC	Sanford	<i>The Sanford Herald</i>	9,000
NC	Shelby	<i>The Shelby Star</i>	16,615
NC	Southern Pines	<i>The Southern Pines Pilot</i>	16,915
NC	Spring Hope	<i>Spring Hope Enterprise</i>	2,537
NC	Statesville	<i>Statesville Record & Landmark</i>	16,000
NC	Tarboro	<i>The Daily Southerner</i>	4,060
NC	Taylorsville	<i>The Taylorsville Times</i>	6,300
NC	Whiteville	<i>The News Reporter</i>	11,164
NC	Wilson	<i>The Wilson Daily Times</i>	16,238
ND	Beulah	<i>Beulah Beacon</i>	863

ND	Devils Lake	<i>Devils Lake Journal</i>	3,400
ND	Garrison	<i>Center Republican</i>	866
ND	Garrison	<i>McLean County Independent</i>	866
ND	Garrison	<i>McClusky Gazette</i>	866
ND	Garrison	<i>The Leader-News</i>	866
ND	Garrison	<i>Underwood News</i>	866
ND	Hankinson	<i>Richland County News-Monitor</i>	1,400
ND	Hazen	<i>Hazen Star</i>	866
ND	New Town	<i>New Town News</i>	866
ND	Parshall	<i>Mountrail County Record</i>	866
ND	Stanley	<i>Mountrail County Promoter</i>	866
ND	Turtle Lake	<i>McLean County Journal</i>	866
ND	Valley City	<i>Valley City Times-Record</i>	2,650
ND	Velva	<i>Velva Voice</i>	866
ND	Wahpeton	<i>The Daily News</i>	2,945
NE	Ashland	<i>Ashland Gazette</i>	3,000
NE	Beatrice	<i>Beatrice Daily Sun</i>	7,000
NE	Broken Bow	<i>Custer County Chief</i>	3,781
NE	Chadron	<i>The Chadron Record</i>	2,000
NE	Columbus	<i>The Columbus Telegram</i>	10,000
NE	David City	<i>Banner Press</i>	2,300
NE	Fairbury	<i>Fairbury Journal-News</i>	3,500
NE	Fremont	<i>Fremont Tribune</i>	7,900
NE	Gordon	<i>Gordon Journal</i>	1,500
NE	Gothenburg	<i>Gothenburg Times</i>	2,338
NE	Grand Island	<i>The Grand Island Independent</i>	20,000
NE	Hebron	<i>Journal-Register</i>	1,700
NE	Kearney	<i>Kearney Hub</i>	13,000
NE	Lexington	<i>Lexington Clipper-Herald</i>	2,985
NE	McCook	<i>McCook Daily Gazette</i>	5,000
NE	Minden	<i>The Minden Courier</i>	2,239
NE	Nebraska City	<i>Nebraska City News-Press</i>	2,164
NE	North Platte	<i>The North Platte Telegraph</i>	12,500
NE	Ord	<i>The Ord Quiz</i>	2,388
NE	Papillion	<i>Papillion Times</i>	3,600
NE	Papillion	<i>Ralston Recorder</i>	1,773
NE	Ponca	<i>Nebraska Journal Leader</i>	1,045
NE	Schuyler	<i>The Schuyler Sun</i>	2,189
NE	Scottsbluff	<i>Scottsbluff Star-Herald</i>	15,300
NE	Sidney	<i>Sun - Telegraph</i>	2,740
NE	Syracuse	<i>Syracuse Journal-Democrat</i>	2,200

NE	Wahoo	<i>Wahoo Newspaper</i>	3,000
NE	Waverly	<i>Waverly News</i>	2,119
NH	Hudson	<i>The Telegraph</i>	23,000
NJ	Newton	<i>Newton New Jersey Herald</i>	13,000
NM	Albuquerque	<i>The Albuquerque Journal</i>	102,000
NM	Angel Fire	<i>Sangre De Cristo Chronicle</i>	2,800
NM	Belen	<i>Valencia County News-Bulletin</i>	23,000
NM	Clovis	<i>Clovis News Journal</i>	5,600
NM	Gallup	<i>The Gallup Independent</i>	22,000
NM	Hobbs	<i>Hobbs News Sun</i>	10,656
NM	Las Alamos	<i>Los Alamos Monitor</i>	5,582
NM	Las Vegas	<i>Las Vegas Optic</i>	5,074
NM	Lovington	<i>The Lovington Daily Leader</i>	2,040
NM	Portales	<i>Portales News Tribune</i>	3,200
NM	Roswell	<i>Roswell Daily Record</i>	10,940
NM	Socorro	<i>El Defensor Chieftain</i>	3,500
NM	Tucumcari	<i>Quay County Sun</i>	3,200
NV	Battle Mountain	<i>The Battle Mountain Bugle</i>	3,000
NV	Carson City	<i>Carson City Nevada Appeal</i>	20,480
NV	Ely	<i>Ely Times</i>	3,045
NV	Fallon	<i>Lahontan Valley News & Fallon Eagle Standard</i>	4,466
NV	Gardnerville	<i>The Record Courier</i>	7,252
NV	Incline Village	<i>North Lake Tahoe Bonanza</i>	1,542
NV	Pahrump	<i>Pahrump Valley Times</i>	7,960
NV	Tonopah	<i>Tonopah Times-Bonanza</i>	1,542
NV	Winnemucca	<i>The Humboldt Sun</i>	3,576
NY	Batavia	<i>The Daily News</i>	12,500
NY	Callicoon	<i>Sullivan County Democrat</i>	7,000
NY	Catskill	<i>Catskill Daily Mail</i>	6,500
NY	Dansville	<i>Genesee Country Express</i>	2,537
NY	Geneseo	<i>Livingston County News</i>	7,500
NY	Herkimer	<i>The Evening Telegram</i>	4,000
NY	Hudson	<i>Hudson Register-Star</i>	6,000
NY	Little Falls	<i>The Evening Times</i>	2,500
NY	Lockport	<i>Lockport Journal</i>	10,000
NY	Medina	<i>The Journal Register</i>	2,000
NY	Niagara Falls	<i>Niagara Gazette Sunday</i>	17,000
NY	North Tonawanda	<i>Tonawanda News</i>	6,000
NY	Oneonta	<i>The Oneonta Daily Star</i>	15,922
NY	Oneonta	<i>Cooperstown Crier</i>	1,811

NY	Oswego	<i>The Palladium-Times</i>	6,322
NY	Penn Yan	<i>The Chronicle-Express</i>	3,857
NY	Plattsburgh	<i>Plattsburgh Press-Republican</i>	22,328
NY	Wappingers Falls	<i>Southern Dutchess News</i>	8,310
NY	Watertown	<i>Watertown Daily Times</i>	23,800
OH	Ada	<i>Ada Herald</i>	1,700
OH	Akron	<i>The Suburbanite</i>	33,800
OH	Alliance	<i>Review</i>	12,000
OH	Ashland	<i>Ashland County Times</i>	14,209
OH	Ashtabula	<i>Ashtabula Star Beacon</i>	16,200
OH	Athens	<i>The Athens Messenger</i>	11,729
OH	Athens	<i>Vinton County Courier</i>	2,500
OH	Batavia	<i>Clermont Sun</i>	1,542
OH	Bellevue	<i>Gazette Publishing Company</i>	5,472
OH	Bryan	<i>The Bryan Times</i>	10,547
OH	Carey	<i>Mohawk Leader</i>	1,681
OH	Carey	<i>The Progressor Times</i>	2,000
OH	Circleville	<i>Circleville Herald</i>	6,500
OH	Defiance	<i>The Defiance Crescent-News</i>	18,000
OH	Delaware	<i>Brown Publishing Company-Marysville</i>	8,119
OH	Delphos	<i>The Daily Herald</i>	3,400
OH	Eaton	<i>The Register-Herald</i>	6,700
OH	Elyria	<i>The Elyria Chronicle-Telegram</i>	25,372
OH	Galion	<i>The Galion Inquirer</i>	3,045
OH	Georgetown	<i>Georgetown News Democrat</i>	3,885
OH	Greenville	<i>The Daily Advocate</i>	6,500
OH	Hillsboro	<i>Hillsboro Times-Gazette</i>	5,000
OH	Jackson	<i>The Jackson County Times-Journal</i>	6,000
OH	Kenton	<i>The Kenton Times</i>	6,698
OH	Logan	<i>The Logan Daily News</i>	5,000
OH	London	<i>Brown Publishing Company-London</i>	5,074
OH	Marysville	<i>Marysville Journal-Tribune</i>	6,000
OH	Marysville	<i>Richwood Gazette</i>	2,000
OH	Massillon	<i>The Independent</i>	13,700
OH	Medina	<i>The Medina County Gazette</i>	16,238
OH	Millersburg	<i>The Holmes County Hub</i>	2,338
OH	Mount Gilead	<i>The Mount Gilead Weeklies</i>	8,221
OH	Napoleon	<i>Northwest Signal</i>	4,567
OH	New Lexington	<i>Perry County Tribune</i>	4,000
OH	Norwalk	<i>Norwalk Reflector</i>	9,743
OH	Piqua	<i>Piqua Daily Call</i>	6,300

OH	Sandusky	<i>Sandusky Register</i>	24,358
OH	Sidney	<i>The Sidney Daily News</i>	12,937
OH	Troy	<i>Troy Daily News</i>	10,000
OH	Upper Sandusky	<i>The Daily Chief-Union (Upper Sandusky)</i>	4,466
OH	Urbana	<i>Urbana Daily Citizen</i>	6,400
OH	Van Wert	<i>Putnam County Sentinel</i>	5,500
OH	Van Wert	<i>The Times-Bulletin</i>	5,000
OH	Wapakoneta	<i>Wapakoneta Daily News</i>	3,000
OH	Washington Court House	<i>Record Herald</i>	6,000
OH	Wauseon	<i>Fulton County Expositor</i>	4,750
OH	Waverly	<i>The News Watchman</i>	4,300
OH	West Union	<i>People's Defender</i>	8,400
OH	Wilmington	<i>Wilmington News Journal</i>	7,000
OH	Wooster	<i>The Wooster Daily Record</i>	22,328
OH	Xenia	<i>Beavercreek News Current</i>	1,000
OH	Xenia	<i>Fairborn Daily Herald</i>	3,300
OH	Xenia	<i>The Xenia Daily Gazette</i>	6,000
OK	Altus	<i>Altus Times</i>	4,000
OK	Ardmore	<i>The Daily Ardmoreite</i>	10,149
OK	Bartlesville	<i>Bartlesville Examiner-Enterprise</i>	10,447
OK	Blackwell	<i>Blackwell Journal Tribune</i>	2,000
OK	Checotah	<i>McIntosh County Democrat</i>	1,841
OK	Chickasha	<i>The Express-Star</i>	5,785
OK	Claremore	<i>Daily Progress</i>	7,104
OK	Cleveland	<i>Cleveland American</i>	2,537
OK	Duncan	<i>The Duncan Banner</i>	8,150
OK	Durant	<i>Durant Daily Democrat</i>	6,800
OK	Edmond	<i>The Edmond Sun</i>	4,200
OK	Eufaula	<i>Indian Journal</i>	2,639
OK	Fairland	<i>The American</i>	1,700
OK	Fort Gibson	<i>Fort Gibson Times</i>	1,045
OK	Frederick	<i>Frederick Leader</i>	1,045
OK	Grove	<i>The Grove Sun</i>	2,800
OK	Guthrie	<i>Guthrie News Leader</i>	2,400
OK	Guymon	<i>Guymon Daily Herald</i>	2,537
OK	Idabel	<i>McCurtain Daily Gazette</i>	7,450
OK	Jay	<i>Delaware County Journal</i>	2,000
OK	Miami	<i>Miami News-Record</i>	4,200
OK	Mustang	<i>Mustang Times</i>	8,000
OK	Nowata	<i>The Nowata Star</i>	2,500
OK	Pauls Valley	<i>Pauls Valley Daily Democrat</i>	4,060

OK	Perkins	<i>The Perkins Journal</i>	3,451
OK	Poteau	<i>Poteau Daily News</i>	5,000
OK	Pryor	<i>The Pryor Daily Times</i>	3,200
OK	Sapulpa	<i>Sapulpa Daily Herald</i>	5,970
OK	Shawnee	<i>The Shawnee News-Star</i>	10,352
OK	Stilwell	<i>Stilwell Democrat Journal</i>	4,500
OK	Tahlequah	<i>Tahlequah Daily Press</i>	5,472
OK	Vinita	<i>Vinita Daily Journal</i>	3,000
OK	Westville	<i>Westville Reporter</i>	1,589
OK	Woodward	<i>Woodward News</i>	4,975
OR	Baker City	<i>Baker City Herald</i>	3,650
OR	Brookings	<i>Curry Coastal Pilot</i>	7,000
OR	Burns	<i>Burns Times-Herald</i>	3,045
OR	Enterprise	<i>Wallowa County Chieftain</i>	2,842
OR	Hermiston	<i>The Hermiston Herald</i>	3,880
OR	Hood River	<i>Hood River News</i>	5,074
OR	John Day	<i>Blue Mountain Eagle</i>	3,045
OR	Keizer	<i>Keizertimes</i>	3,248
OR	Klamath Falls	<i>Klamath Falls Herald and News</i>	17,253
OR	La Grande	<i>The Observer</i>	6,400
OR	Madras	<i>The Madras Pioneer</i>	4,179
OR	Medford	<i>Ashland Daily Tidings</i>	3,000
OR	Medford	<i>Medford Mail Tribune</i>	24,000
OR	Newberg	<i>The Graphic</i>	4,060
OR	Pendleton	<i>Pendleton East Oregonian</i>	9,134
OR	Prineville	<i>Central Oregonian</i>	4,428
OR	Roseburg	<i>The Roseburg News-Review</i>	18,905
OR	The Dalles	<i>The Dalles Daily Chronicle</i>	5,886
OR	Woodburn	<i>Woodburn Independent/Canby</i>	7,800
PA	Allentown	<i>East Penn Press</i>	6,500
PA	Allentown	<i>Northwestern Press</i>	4,000
PA	Allentown	<i>Parkland Press</i>	5,000
PA	Allentown	<i>Whitehall-Coplay Press</i>	5,000
PA	Bedford	<i>Bedford Gazette</i>	9,421
PA	Bloomsburg	<i>Press Enterprise</i>	23,850
PA	Carlisle	<i>The Carlisle Sentinel</i>	16,847
PA	Corry	<i>Corry Evening Journal</i>	3,755
PA	Greencastle	<i>The Echo-Pilot</i>	2,537
PA	Greenville	<i>The Record-Argus</i>	4,669
PA	Hazleton	<i>Hazleton Standard-Speaker</i>	22,000
PA	Hellertown	<i>The Valley Voice</i>	1,443

PA	Honesdale	<i>The Wayne Independent</i>	4,060
PA	Huntingdon	<i>The Daily News</i>	10,000
PA	Kane	<i>The Kane Republican</i>	2,040
PA	Latrobe	<i>The Latrobe Bulletin</i>	7,510
PA	Lehighton	<i>Salisbury Press</i>	4,000
PA	Lehighton	<i>Times News</i>	16,500
PA	Milton	<i>Lewisburg Daily Journal</i>	1,000
PA	Milton	<i>The Standard Journal</i>	2,600
PA	Montrose	<i>(The Susquehanna County) Independent</i>	3,755
PA	Newville	<i>Valley Times-Star</i>	3,349
PA	Oil City	<i>Derrick Publishing Co.</i>	23,880
PA	Pittsburgh	<i>Trib Total Media</i>	226,500
PA	Pottsville	<i>Pottsville Republican Herald</i>	40,000
PA	Punxsutawney	<i>The Spirit</i>	5,200
PA	Ridgway	<i>The Ridgway Record</i>	3,146
PA	Sayre	<i>Sayre Morning Times</i>	6,100
PA	Scranton	<i>Scranton Times-Tribune</i>	54,000
PA	Shippensburg	<i>The News-Chronicle</i>	4,770
PA	St. Marys	<i>The Daily Press</i>	4,973
PA	Stroudsburg	<i>Stroudsburg Pocono Record</i>	20,805
PA	Sunbury	<i>The Sunbury Daily Item</i>	23,000
PA	Towanda	<i>The Daily Review</i>	9,540
PA	Tunkhannock	<i>The New Age-Examiner</i>	5,886
PA	Tyrone	<i>The Daily Herald</i>	2,000
PA	Washington	<i>Observer-Reporter</i>	36,500
PA	Waynesboro	<i>The Record Herald</i>	9,642
PA	White Haven	<i>The Journal-Herald</i>	1,000
PA	Wilkes-Barre	<i>The Citizens' Voice</i>	36,536
PA	Wyalusing	<i>Rocket-Courier</i>	4,060
RI	Warwick	<i>Cranston Herald</i>	4,060
RI	Warwick	<i>Warwick Beacon</i>	10,859
RI	Westerly	<i>The Westerly Sun</i>	10,149
SC	Barnwell	<i>The People-Sentinel</i>	6,000
SC	Bennettsville	<i>Marlboro Herald-Advocate</i>	7,104
SC	Bluffton	<i>Bluffton Today</i>	5,500
SC	Edgefield	<i>The Citizen News</i>	1,900
SC	Hampton	<i>Hampton County Guardian</i>	4,990
SC	Hartsville	<i>The Messenger</i>	4,500
SC	Lancaster	<i>The Lancaster News</i>	13,930
SC	Newberry	<i>The Newberry Observer</i>	5,000
SC	Orangeburg	<i>The Orangeburg Times and Democrat</i>	16,089

SC	Pickens	<i>The Pickens Sentinel</i>	4,600
SC	Ridgeland	<i>Jasper County Sun Times</i>	1,324
SC	Seneca	<i>The Daily Journal</i>	7,060
SC	Seneca	<i>The Daily Messenger</i>	1,940
SC	Sumter	<i>Clarendon Sun</i>	10,000
SC	Union	<i>The Union Daily Times</i>	6,495
SC	Winnsboro	<i>The Herald Independent</i>	3,000
SD	Aberdeen	<i>Aberdeen American News</i>	16,250
SD	Armour	<i>Armour Chronicle</i>	865
SD	Belle Fourche	<i>Belle Fourche Butte County Post</i>	1,600
SD	Brookings	<i>Brookings Register</i>	5,074
SD	Chamberlain	<i>Central Dakota Times</i>	2,438
SD	Corsica	<i>Corsica Globe</i>	895
SD	Corsica	<i>The Delmont Record</i>	230
SD	Elk Point	<i>Leader-Courier</i>	1,200
SD	Hot Springs	<i>Hot Springs Star</i>	1,200
SD	Newell	<i>Butte County Valley Irrigator</i>	1,800
SD	Parker	<i>The New Era</i>	1,121
SD	Sturgis	<i>Meade County Times Tribune</i>	2,000
SD	White Lake	<i>Aurora County Standard</i>	873
SD	White Lake	<i>The Stickney Argus</i>	872
SD	Yankton	<i>Yankton Daily Press & Dakotan</i>	8,557
TN	Bolivar	<i>Bolivar Bulletin-Times</i>	1,878
TN	Brownsville	<i>Brownsville States-Graphic</i>	3,300
TN	Camden	<i>Carroll County News-Leader</i>	4,300
TN	Camden	<i>The Camden Chronicle</i>	4,000
TN	Cleveland	<i>Cleveland Daily Banner</i>	16,238
TN	Collierville	<i>The Collierville Herald</i>	4,600
TN	Covington	<i>The Leader</i>	5,500
TN	Crossville	<i>Crossville Chronicle</i>	7,242
TN	Dayton	<i>The Herald-News</i>	5,683
TN	Dyer	<i>The Tri-City Reporter</i>	2,000
TN	Dyersburg	<i>The Dyersburg State Gazette</i>	6,089
TN	Elizabethton	<i>Elizabethton Star</i>	9,000
TN	Erwin	<i>The Erwin Record</i>	5,074
TN	Fayetteville	<i>Elk Valley Times</i>	6,950
TN	Fayetteville	<i>Observer & News</i>	6,950
TN	Franklin	<i>The Williamson Herald</i>	8,500
TN	Greeneville	<i>The Greeneville Sun</i>	13,300
TN	Henderson	<i>Chester County Independent</i>	4,567
TN	Humboldt	<i>Humboldt Chronicle</i>	2,771

TN	Jamestown	<i>Fentress Courier</i>	5,074
TN	Jefferson City	<i>The Standard Banner</i>	6,965
TN	Jonesborough	<i>Herald & Tribune</i>	4,400
TN	Lafayette	<i>Macon County Times</i>	4,400
TN	Lebanon	<i>The Wilson Post</i>	9,134
TN	Lenoir City	<i>The News-Herald</i>	5,836
TN	Maryville	<i>The Daily Times</i>	20,500
TN	McMinnville	<i>Southern Standard</i>	9,950
TN	Mt. Juliet	<i>The Mt. Juliet News</i>	2,786
TN	Oak Ridge	<i>The Oak Ridger</i>	8,119
TN	Oneida	<i>Independent Herald</i>	5,074
TN	Parsons	<i>The News Leader</i>	3,552
TN	Pulaski	<i>The Pulaski Citizen</i>	7,500
TN	Selmer	<i>Independent Appeal</i>	7,104
TN	Sevierville	<i>The Mountain Press</i>	9,300
TN	Shelbyville	<i>Shelbyville Times Gazette</i>	10,945
TN	Smithville	<i>Smithville Review</i>	3,500
TN	Sweetwater	<i>The Advocate & Democrat</i>	5,300
TN	Tazewell	<i>Claiborne Progress</i>	5,000
TN	Tullahoma	<i>The Tullahoma Sunday News</i>	10,356
TN	Waynesboro	<i>The Wayne County News</i>	5,000
TN	Woodbury	<i>Cannon Courier</i>	3,600
TX	Alice	<i>Alice Echo News-Journal</i>	4,567
TX	Alvin	<i>Alvin Sun</i>	1,000
TX	Andrews	<i>Andrews County News</i>	2,842
TX	Athens	<i>Athens Daily Review</i>	5,200
TX	Austin	<i>Lake Travis View</i>	4,050
TX	Austin	<i>Westlake Picayune</i>	3,400
TX	Bastrop	<i>Bastrop Advertiser</i>	5,700
TX	Bay City	<i>The Bay City Tribune</i>	5,074
TX	Baytown	<i>The Baytown Sun</i>	9,384
TX	Big Spring	<i>Big Spring Herald</i>	5,174
TX	Borger	<i>Borger News-Herald</i>	5,074
TX	Breckenridge	<i>Breckenridge American</i>	1,990
TX	Brenham	<i>The Banner-Press</i>	6,597
TX	Brownfield	<i>Brownfield News</i>	2,700
TX	Brownwood	<i>Brownwood Bulletin</i>	7,500
TX	Bryan	<i>Bryan-College Station Eagle</i>	25,372
TX	Burleson	<i>Alvarado Star</i>	308
TX	Burleson	<i>Burleson Star</i>	3,272
TX	Burleson	<i>Crowley Star</i>	745

TX	Burleson	<i>Everman Star</i>	289
TX	Burleson	<i>Joshua Star</i>	687
TX	Burleson	<i>Kenne Star</i>	569
TX	Canyon	<i>The Canyon News</i>	4,000
TX	Center	<i>Light and Champion</i>	4,060
TX	Childress	<i>The Childress Index</i>	2,100
TX	Clarksville	<i>Clarksville Times</i>	3,248
TX	Cleburne	<i>Cleburne Times-Review</i>	5,000
TX	Clifton	<i>Clifton Record</i>	2,900
TX	Comfort	<i>The Comfort News</i>	1,244
TX	Corrigan	<i>Corrigan Times</i>	1,194
TX	Crockett	<i>Houston County Courier</i>	5,176
TX	Cuero	<i>Cuero Record</i>	3,200
TX	Cuero	<i>Yorktown News</i>	1,900
TX	Decatur	<i>Wise County Messenger</i>	6,000
TX	Denton	<i>Denton Record-Chronicle</i>	14,280
TX	Edinburg	<i>Edinburg Review</i>	20,000
TX	Edna	<i>Jackson County Herald Tribune</i>	3,600
TX	El Campo	<i>El Campo Leader-News</i>	5,200
TX	Eldorado	<i>The Eldorado Success</i>	2,288
TX	Emory	<i>Rains County Leader</i>	3,146
TX	Floresville	<i>Wilson County News</i>	11,000
TX	Fredericksburg	<i>Fredericksburg Standard-Radio Post</i>	9,600
TX	Freer	<i>The Freer Press</i>	1,542
TX	Gainesville	<i>Gainesville Daily Register</i>	6,300
TX	Galveston	<i>The Galveston County Daily News</i>	24,500
TX	Gatesville	<i>Star-Forum</i>	1,060
TX	Gatesville	<i>The Gatesville Messenger</i>	3,000
TX	Gilmer	<i>The Gilmer Mirror</i>	5,074
TX	Glen Rose	<i>Glen Rose Reporter</i>	2,000
TX	Graford	<i>Lake Country Sun</i>	1,100
TX	Graham	<i>The Graham Leader</i>	4,336
TX	Granbury	<i>Hood County News</i>	10,149
TX	Greenville	<i>Greenville Herald-Banner</i>	7,800
TX	Groveton	<i>Groveton News</i>	1,940
TX	Hearne	<i>Calvert Tribune</i>	1,300
TX	Hearne	<i>Franklin Advocate</i>	1,300
TX	Hearne	<i>Hearne Democrat</i>	2,000
TX	Hemphill	<i>Sabine County Reporter</i>	3,045
TX	Henderson	<i>Henderson Daily News</i>	6,219
TX	Hereford	<i>Hereford Brand</i>	2,639

TX	Huntsville	<i>The Huntsville Item</i>	6,089
TX	Ingram	<i>West Kerr Current</i>	1,940
TX	Iowa Park	<i>Iowa Park Leader</i>	2,400
TX	Jacksboro	<i>Jack County Herald</i>	1,050
TX	Jacksonville	<i>Jacksonville Daily Progress</i>	3,800
TX	Jefferson	<i>The Jefferson Jimplecute</i>	2,000
TX	Jonestown	<i>Cedar Park Citizen</i>	14,350
TX	Jonestown	<i>Leander Ledger</i>	8,700
TX	Junction	<i>The Junction Eagle</i>	1,800
TX	Karnes	<i>The Countywide</i>	3,100
TX	Katy	<i>The Katy Times</i>	6,000
TX	Kaufman	<i>Kaufman Herald</i>	4,364
TX	Kerrville	<i>Kerrville Daily Times</i>	9,540
TX	Kilgore	<i>Kilgore News Herald</i>	3,400
TX	Kingsville	<i>Kingsville Record</i>	6,089
TX	Lamesa	<i>Lamesa Press-Reporter</i>	3,383
TX	Laredo	<i>Laredo Morning Times</i>	19,500
TX	Levelland	<i>Levelland And Hockley County News-Press</i>	4,900
TX	Littlefield	<i>The Lamb County Leader News</i>	2,800
TX	Livingston	<i>Polk County Enterprise</i>	8,322
TX	Longview	<i>Longview News Journal</i>	30,090
TX	Lubbock	<i>Lubbock Avalanche-Journal</i>	33,250
TX	Lufkin	<i>The Lufkin Daily News</i>	13,668
TX	Lytle	<i>Leader News</i>	2,686
TX	Mabank	<i>The Monitor-Lake Area Leader</i>	4,060
TX	Marshall	<i>Marshall News Messenger</i>	7,650
TX	McAllen	<i>Original Winter Texan</i>	5,000
TX	Menard	<i>Menard News & Messenger</i>	1,443
TX	Meridian	<i>Meridian Tribune</i>	2,400
TX	Mexia	<i>Hubbard City News</i>	1,100
TX	Mexia	<i>The Mexia Daily News</i>	2,100
TX	Midland	<i>Midland Reporter-Telegram</i>	21,313
TX	Mineral Wells	<i>The Mineral Wells Index</i>	3,000
TX	Mount Vernon	<i>Mount Vernon Optic-Herald</i>	3,045
TX	Mt. Pleasant	<i>Mount Pleasant Daily Tribune</i>	5,273
TX	Muleshoe	<i>Muleshoe Journal</i>	2,000
TX	New Braunfels	<i>New Braunfels Herald-Zeitung</i>	10,700
TX	Nacogdoches	<i>The Daily Sentinel</i>	8,772
TX	Olney	<i>The Olney Enterprise</i>	1,000
TX	Orange	<i>The Orange Leader</i>	5,000

TX	Palestine	<i>Palestine Herald-Press</i>	7,500
TX	Plainview	<i>Plainview Daily Herald</i>	6,800
TX	Port Arthur	<i>Port Arthur News</i>	13,500
TX	Port Lavaca	<i>The Port Lavaca Wave</i>	4,567
TX	Post	<i>The Post Dispatch</i>	1,691
TX	Raymondville	<i>Raymondville Chronicle</i>	2,200
TX	Raymondville	<i>Willacy County News</i>	1,149
TX	Robstown	<i>Nueces County Record Star</i>	4,000
TX	Rockport	<i>Rockport Pilot</i>	4,975
TX	Rosenberg	<i>The Fort Bend Herald</i>	8,880
TX	Round Rock	<i>Pflugerville Pflag</i>	7,200
TX	Round Rock	<i>Round Rock Leader</i>	7,500
TX	San Marcos	<i>San Marcos Daily Record</i>	5,750
TX	Seagoville	<i>The Suburbia News</i>	1,600
TX	Seguin	<i>Seguin Gazette-Enterprise</i>	6,597
TX	Seminole	<i>Seminole Sentinel</i>	1,240
TX	Shepherd	<i>San Jacinto News-Times</i>	2,239
TX	Smithville	<i>Smithville Times</i>	3,100
TX	Snyder	<i>The Snyder Daily News</i>	5,582
TX	Stephenville	<i>Stephenville Empire-Tribune</i>	4,726
TX	Sweetwater	<i>Sweetwater Reporter</i>	3,755
TX	Teague	<i>The Teague Chronicle</i>	2,537
TX	Terrell	<i>Terrell Tribune</i>	4,060
TX	Trinity	<i>Trinity Standard</i>	2,388
TX	Uvalde	<i>The Uvalde Leader-News</i>	4,975
TX	Vernon	<i>The Vernon Daily Record</i>	4,669
TX	Vidor	<i>The Vidorian</i>	1,200
TX	Waco	<i>Waco Tribune-Herald</i>	37,000
TX	Waxahachie	<i>Waxahachie Daily Light</i>	5,480
TX	Weatherford	<i>The Weatherford Democrat</i>	4,000
TX	Wellington	<i>Wellington Leader</i>	1,700
TX	Weslaco	<i>Weslaco Mid-Valley Town Crier</i>	18,268
TX	Wharton	<i>Wharton Journal-Spectator</i>	4,200
TX	Wills Point	<i>Van Zandt News</i>	8,119
TX	Woodville	<i>Tyler County Booster</i>	3,857
TX	Zapata	<i>Zapata County News</i>	2,300
UT	Bountiful	<i>Davis County Clipper</i>	10,000
UT	Cedar City	<i>Iron County Today</i>	10,000
UT	Heber City	<i>Wasatch Wave</i>	4,263
UT	Moab	<i>The Times Independent</i>	3,300
UT	Ogden	<i>Standard-Examiner</i>	63,939

UT	Price	<i>Sun-Advocate</i>	6,428
UT	Richfield	<i>Richfield Reaper</i>	5,683
UT	Salt Lake City	<i>The Salt Lake Tribune/Deseret News</i>	150,000
UT	Tooele	<i>Tooele Transcript Bulletin</i>	7,409
VA	Ashland	<i>Herald Progress</i>	5,500
VA	Bedford	<i>Bedford Bulletin</i>	8,018
VA	Big Stone Gap	<i>The Post</i>	3,000
VA	Farmville	<i>The Farmville Herald</i>	8,322
VA	Floyd	<i>The Floyd Press</i>	5,000
VA	Front Royal	<i>The Warren Sentinel</i>	3,400
VA	Galax	<i>The Gazette</i>	8,424
VA	Goochland	<i>The Goochland Gazette</i>	5,500
VA	Harrisonburg	<i>Page News and Courier</i>	7,815
VA	Harrisonburg	<i>Shenandoah Valley-Herald</i>	3,700
VA	Harrisonburg	<i>Valley Banner</i>	3,900
VA	Hillsville	<i>The Carroll News</i>	6,766
VA	Hopewell	<i>The Hopewell News</i>	3,000
VA	Lexington	<i>The News-Gazette</i>	8,627
VA	Louisa	<i>The Central Virginian</i>	5,000
VA	Marion	<i>Smyth County News & Messenger</i>	6,100
VA	Norton	<i>The Coalfield Progress</i>	6,000
VA	Norton	<i>Dickenson Star/Cumberland Times</i>	3,500
VA	Petersburg	<i>The Petersburg Progress-Index</i>	15,223
VA	Richlands	<i>Richlands News-Press</i>	3,798
VA	South Boston	<i>The Gazette-Virginian</i>	10,500
VA	Strasburg	<i>Northern Virginia Daily</i>	15,800
VA	Suffolk	<i>Suffolk News-Herald</i>	4,263
VA	Tazewell	<i>Clinch Valley News</i>	3,300
VA	Wytheville	<i>The Bland Messenger</i>	2,500
VA	Wytheville	<i>Wytheville Enterprise</i>	2,400
VT	Bennington	<i>Bennington Banner</i>	8,119
VT	Brattleboro	<i>Brattleboro Reformer</i>	10,656
VT	Newport	<i>The Newport Daily Express</i>	3,969
VT	St. Albans	<i>St. Albans Messenger</i>	6,089
VT	St. Johnsbury	<i>The Caledonian-Record</i>	10,000
VT	West Dover	<i>Deerfield Valley News</i>	3,045
WA	Camas	<i>Camas-Washougal Post-Record</i>	4,100
WA	Colville	<i>Statesman-Examiner</i>	4,060
WA	Deer Park	<i>Tribune</i>	1,194
WA	Eatonville	<i>The Dispatch</i>	4,750
WA	Ellensburg	<i>Ellensburg Daily Record</i>	6,268

WA	Grandview	<i>Grandview Herald</i>	2,040
WA	Omak	<i>The (Omak-Okanogan County) Chronicle</i>	5,771
WA	Prosser	<i>Record Bulletin</i>	3,045
WA	Quincy	<i>The Quincy Valley Post-Register</i>	2,040
WA	Sequim	<i>Sequim Gazette</i>	8,627
WA	Spokane	<i>The Spokane Spokesman-Review</i>	109,251
WA	Sunnyside	<i>Daily Sun News</i>	3,755
WA	Yakima	<i>Yakima Herald-Republic</i>	32,200
WI	Amery	<i>Amery Free Press</i>	5,100
WI	Antigo	<i>Antigo Buyers Guide</i>	11,276
WI	Ashland	<i>The Daily Press</i>	6,000
WI	Baldwin	<i>The Baldwin Bulletin</i>	1,900
WI	Baraboo	<i>Baraboo News Republic</i>	4,950
WI	Barron	<i>Barron News-Shield</i>	4,000
WI	Beaver Dam	<i>Daily Citizen</i>	10,550
WI	Black River Falls	<i>Jackson County Chronicle</i>	2,139
WI	Burlington	<i>Burlington Standard Press</i>	5,000
WI	Cedarburg	<i>Ozaukee County News Graphic</i>	8,080
WI	Chetek	<i>The Chetek Alert</i>	2,900
WI	Clintonville	<i>Clintonville Tribune Gazette</i>	2,500
WI	Clintonville	<i>Clintonville Buyers Guide</i>	14,000
WI	Cumberland	<i>Cumberland Advocate</i>	2,139
WI	Delavan	<i>The Delavan Enterprise</i>	2,500
WI	Eagle River	<i>Vilas County News-Review</i>	6,120
WI	East Troy	<i>The East Troy News</i>	750
WI	Elkhorn	<i>The Elkhorn Independent</i>	2,000
WI	Fort Atkinson	<i>Daily Jefferson County Union</i>	8,728
WI	Hayward	<i>Sawyer County Record</i>	4,776
WI	Iola	<i>Manawa Advocate</i>	500
WI	Iola	<i>The Iola Herald</i>	1,000
WI	Lake Geneva	<i>Lake Geneva Times</i>	2,500
WI	Lancaster	<i>Grant County Herald Independent</i>	3,552
WI	Marinette	<i>Eagle Herald</i>	9,000
WI	Marshfield	<i>Marshfield Buyers Guide</i>	21,513
WI	Mauston	<i>Juneau County Star-Times</i>	3,097
WI	Merrill	<i>Foto News</i>	16,400
WI	Milwaukee	<i>Milwaukee Journal Sentinel</i>	260,000
WI	Monroe	<i>The Monroe Times</i>	5,074
WI	New London	<i>New London Buyers Guide</i>	15,151
WI	Osceola	<i>Osceola Sun</i>	2,139
WI	Oshkosh	<i>Berlin/Ripon Ad Pack</i>	12,700

WI	Oshkosh	<i>Oshkosh Buyers Guide</i>	25,000
WI	Park Falls	<i>The Park Falls Herald</i>	2,800
WI	Platteville	<i>The Platteville Journal</i>	4,263
WI	Portage	<i>Daily Register</i>	5,555
WI	Racine	<i>The Racine Journal Times</i>	31,000
WI	Reedsburg	<i>Reedsburg Times Press</i>	1,059
WI	Rhineland	<i>Star Journal</i>	16,000
WI	Sauk City	<i>The Sauk Prairie Eagle</i>	2,218
WI	Shawano	<i>Shawano Leader</i>	7,800
WI	Spooner	<i>Spooner Advocate</i>	4,229
WI	Stevens Point	<i>Stevens Point Buyers Guide</i>	21,097
WI	Twin Lakes	<i>Westosha Report</i>	800
WI	Union Grove	<i>Westine Report</i>	950
WI	Walworth	<i>The Times Walworth</i>	500
WI	Washburn	<i>The County Journal</i>	1,900
WI	Waterford	<i>Waterford Post</i>	1,600
WI	Watertown	<i>Times Publishing Company</i>	9,900
WI	Waukesha	<i>Waukesha Freeman</i>	12,726
WI	Waupaca	<i>Waupaca County Post</i>	7,300
WI	Wausau	<i>Wausau Buyers Guide</i>	33,800
WI	Wautoma	<i>The Waushara Argus</i>	5,897
WI	West Bend	<i>West Bend Daily News</i>	9,343
WI	Weyauwega	<i>The Chronicle</i>	2,500
WI	Whitewater	<i>Whitewater Register</i>	1,000
WI	Wisconsin Dells	<i>Wisconsin Dells Events</i>	2,288
WI	Wisconsin Rapids	<i>Wisconsin Rapids Buyers Guide</i>	22,040
WV	Gilbert	<i>Gilbert Times</i>	1,700
WV	Hamlin	<i>Lincoln Journal</i>	3,000
WV	Harrisville	<i>Ritchie Gazette</i>	3,857
WV	Keyser	<i>Mineral Daily News Tribune</i>	4,200
WV	Lewisburg	<i>Mountain Messenger</i>	3,045
WV	Montgomery	<i>Montgomery Herald</i>	1,300
WV	Oak Hill	<i>The Fayette Tribune</i>	2,000
WV	Petersburg	<i>Grant County Press</i>	4,060
WV	Pineville	<i>Independent Herald</i>	2,000
WV	Princeton	<i>Princeton Times</i>	1,700
WV	Ravenswood	<i>The Star Herald</i>	12,179
WV	Romney	<i>Hampshire Review</i>	7,150
WV	Sutton	<i>Braxton Democrat-Central</i>	3,552
WV	Wayne	<i>Wayne County News</i>	3,045
WY	Afton	<i>Star Valley Independent</i>	3,184

WY	Casper	<i>Casper Star-Tribune</i>	31,000
WY	Cody	<i>The Cody Enterprise</i>	6,089
WY	Douglas	<i>Douglas Budget</i>	5,500
WY	Gillette	<i>The News-Record</i>	9,950
WY	Landers	<i>The Journal</i>	4,191
WY	Powell	<i>The Powell Tribune</i>	3,045
WY	Rawlins	<i>Rawlins Daily Times</i>	3,755
WY	Riverton	<i>The Ranger</i>	5,400
WY	Rock Sprints	<i>Daily Rocket-Miner</i>	9,452
WY	Sheridan	<i>Sheridan Press</i>	7,104
WY	Sundance	<i>The Sundance Times</i>	1,642
WY	Worland	<i>Northern Wyoming Daily News</i>	4,060

NP APPENDIX 4:
POSTCARD NOTICE

Please read the back of
this card carefully for
more information about
your options.

If you have questions or
need more information,
call 1-800-000-0000.

Court-Ordered Legal Notice

Administrator
PO Box 0000
City, State 0000-0000

PRESORTED
FIRST-CLASS MAIL
U.S. POSTAGE
PAID

Legal notice about the Black Farmer Settlement

NAME
ADDRESS
CITY STATE ZIP CODE

If You are African American and Suffered Farm Loan Discrimination By the USDA between 1981 and 1996,

You may be eligible for money from a \$1.25 billion class action Settlement Fund

There is a proposed class action Settlement with the U.S. Department of Agriculture (USDA) involving discrimination against African American farmers from 1981 to 1996. This Settlement is only for certain people who tried to file a late claim in the original Pigford case, or their heirs. The current Settlement (sometimes called Pigford II) provides benefits to some of those late filers. **Records from the original Black Farmers settlement in the Pigford lawsuit show that you may be included in this new Settlement.**

Am I included? You may be included if you were eligible for a payment in Pigford and filed a claim package or late-filing request that was denied or never considered because it was late. If you are the heir or kin of someone who died who fits this description, you may file a claim for a payment that would become part of the deceased person's estate. If you are not sure if you or a relative are included, please call 1-800-000-0000.

What can I get from the Settlement? You may be eligible for a substantial cash payment and/or USDA loan forgiveness from the Settlement. You will need to file a claim to be eligible for these benefits. The claims deadline may be as early **Month 00, 2012**.

What are my other options? If you want to object/comment on the Settlement or appear at the hearing, you need to send a letter to the Court by **Month 00, 2011**. The Court will hold a hearing on **Month 00, 2011** to consider whether to approve the Settlement and a request for attorneys' fees and expenses between \$__ and \$___. You or your own lawyer may ask to appear and speak at the hearing at your own cost. Even if you do not file a claim you will not be able to sue the USDA about the issues in this lawsuit.

For more information:

1-800-000-0000

www.BlackFarmerCase.com

NP APPENDIX 5:
LONG FORM NOTICE

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

**If You Are African American and Experienced Farm Loan
Discrimination by the USDA between 1981 and 1996,
Or Are the Heir, Kin, or Legal Representative of Someone Who Experienced
That Discrimination,

You Could Receive Money From a \$1.25 Billion Settlement.**

A federal court authorized this notice. You are not being sued.

- There is a proposed Settlement in a class action lawsuit that claims the U.S. Department of Agriculture (USDA) discriminated against African Americans who applied for farm loans and other benefits between 1981 and 1996.
- This Settlement is only for certain people who tried to file a late claim in *Pigford v. Glickman* (“*Pigford*”), an earlier farm loan discrimination lawsuit by black farmers against the USDA.
- Your legal rights are affected whether you act or don’t act, so please read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
File a Claim	If you qualify, file a claim for a cash payment and in some cases, reduction or forgiveness of outstanding USDA loans. <i>See</i> Questions 6-17.
Object/Comment on Settlement	Tell the Court what you think about the Settlement. <i>See</i> Question 25.
Go to a Hearing	Ask to speak in Court about the Settlement. <i>See</i> Question 28.
Do Nothing	You will not receive an award under the Settlement, and you will give up your rights to sue the USDA about the discrimination claims in this lawsuit in the future. <i>See</i> Questions 24 and 29.

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will not be made until after the Court approves the Settlement, any appeals are resolved, and all eligible claims have been decided. Please be patient.

WHAT THIS NOTICE CONTAINS

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5. Why is there a Settlement?

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8. How do I know if I already received a determination on the merits of my *Pigford* claim?
9. If I am a Class Member, am I eligible for an award under the Settlement?

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14. What USDA loans are eligible for reduction or forgiveness?
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BASIC INFORMATION

1. Why is there a notice?

A class action Settlement has been reached between certain African American farmers and the United States Department of Agriculture (USDA). If you are eligible for benefits from this Settlement, you have a right to know about it and about all of your options before the Court decides whether to approve the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for those benefits, and how to get them.

Judge Paul Friedman of the United States District Court for the District of Columbia is overseeing this class action. The case is known as *In re Black Farmers Discrimination Litigation*, and the case number is 08-mc-0511 (D.D.C.). The people who sued are called Plaintiffs and the person they sued, the Secretary of the USDA, is called the Defendant.

2. What is the *Pigford* case about and how does it relate to this Settlement?

In 1999, a lawsuit called *Pigford v. Glickman* (“*Pigford*”) was settled. The lawsuit involved claims by African American farmers that the USDA had discriminated against them between 1981 and 1996 based on race, wrongfully denying them farm loans, loan servicing, and other benefits, or giving them loans with unfair terms. Many people who may have been entitled to benefits under that settlement did not file timely claims.

The Court in *Pigford* allowed people to file a petition (“Late-Filing Request”) to request that their claims be considered after the original claims deadline (October 12, 1999). The Late-Filing Request had to be submitted by September 15, 2000. If those people could not demonstrate that their late filing was due to “extraordinary circumstances beyond their control,” their claim in *Pigford* was denied. For purposes of this notice, these denied people are called “Late Filers.”

Many additional people filed Late-Filing Requests on or after September 16, 2000 and on or before June 18, 2008, and were also denied participation in *Pigford* due to the lateness of their claim. For purposes of this notice, these people are called “Late-Late Filers.”

Late Filers and Late-late Filers from the *Pigford* case may be eligible to file claims under this new Settlement.

3. What is the current Settlement about?

This new Settlement involves the same type of claims that were the subject of the *Pigford* settlement. Specifically, it involves claims by African American farmers that the USDA discriminated against them between 1981 and 1996 based on race, wrongfully denying them farm loans, loan servicing, and other benefits, or giving them loans with unfair terms. The current Settlement will only provide cash payments and debt relief to Late Filers and Late-Late Filers in *Pigford* who did not have their *Pigford* claims determined on the merits. (See Question 8 for an explanation of “determined on the merits.”). Congress has approved \$1.25 billion to pay claims and other expenses under this Settlement.

4. Why is this a Class Action?

In a class action lawsuit, one or more people called “Class Representatives” sue on behalf of other people who have similar claims. All these people together are a “Class” or “Class Members.” One court decides all the issues in the lawsuit for all the Class Members.

5. Why is there a Settlement?

The Court has not decided in favor of the Class or the USDA. Instead, both sides have agreed to a Settlement, which is an agreement between the Class and the USDA. That way, both sides avoid the cost and risk of continuing the case, and Class Members who prove they experienced discrimination will receive money without having to go through with individual lawsuits. The Class Representatives and the lawyers representing them think this Settlement is best for all Class Members.

WHO IS INCLUDED IN THE SETTLEMENT?

The Settlement Agreement provides relief to individuals who are both Class Members *and* who, in addition, are able to meet a series of specific requirements for receiving an award. How to determine if you are a Class Member and the additional requirements for receiving an award are described below.

6. Am I a Class Member?

To know if you may receive money from this Settlement, you first have to know if you are a Class Member. To be a Class Member, you must:

1. Be a Late Filer or Late-Late Filer; **and**
2. Have not already received a determination on the merits of your discrimination claim in *Pigford*.

7. How do I know if I am a Late Filer or a Late-Late Filer?

A neutral company appointed by the Court to serve as Claims Administrator has information on people who filed Late-Filing Requests in the *Pigford* case. This information will help them determine if you filed a Late-Filing Request and whether you are a Late Filer or a Late-Late Filer.

- Late Filers are people who submitted Late-Filing Requests on or between October 13, 1999 and September 15, 2000.
- Late-Late filers are people who submitted Late-Filing Requests on or between September 16, 2000 and June 18, 2008.

You may submit any additional documents to the Claims Administrator that help prove you are a Late Filer or Late-Late Filer.

To find out if the Claims Administrator has you listed as a Late Filer, or has documentation indicating you may be a Late-Late Filer, call 1-800-xxx-xxxx.

8. How do I know if I already received a determination on the merits of my *Pigford* claim?

Only a Late Filer or Late-Late Filer who has *not* previously received a determination on the merits of his or her *Pigford* claim is a Class Member. You received a determination on the merits if:

- 1) Your *Pigford* claim was approved or denied,
- 2) Your *Pigford* claim was determined to be defective by the *Pigford* Facilitator, **or**
- 3) Your *Pigford* Late-Filing Request was approved and you then failed to file a claim on time.

The Claims Administrator has a list of everyone who received a determination on the merits of their claims in *Pigford*. To see if your name is on this list, call the Claims Administrator at 1-800-xxx-xxxx.

9. If I am a Class Member, am I eligible for an award under the Settlement?

If you are a Class Member (you are a Late Filer or a Late-Late Filer and did not receive a determination on the merits of your *Pigford* claim), the Court has said you may be eligible for an award under the Settlement if you, or the person on whose behalf you are filing a claim, can meet **ALL** of the following criteria:

- a) You are an African American;
- b) You farmed or attempted to farm between January 1, 1981 and December 31, 1996;
- c) You owned or leased, or attempted to own or lease, farm land between January 1, 1981 and December 31, 1996;
- d) Between January 1, 1981 and December 31, 1996, you applied or tried to apply to the USDA for participation in a federal farm credit or benefit program(s) and believe that you were discriminated against on the basis of race in the USDA's response;
- e) You experienced one of the following :
 - Were denied participation in a federal farm credit or benefit program(s); or
 - Participation was provided late, approved for a lesser amount than you requested, or burdened by restrictive conditions;
 - Received a loan with unfair terms; or
 - Did not receive appropriate loan service from the USDA;
- f) You suffered economic loss as a result of the USDA's treatment of your application(s) for participation in a federal farm credit or benefit program(s) or as a result of inappropriate loan service by USDA; **and**
- g) You complained of discrimination to an official of the United States Government on or before July 1, 1997 regarding USDA's treatment of you.

If you are the heir or legal representative of someone who died who fits this description, you may file a claim for payment that would become part of the deceased person's estate.

AWARDS UNDER THE SETTLEMENT

10. What does the Settlement provide?

Congress has provided \$1.25 billion to settle this lawsuit. This money is called the Settlement Fund. After deducting certain amounts, including the costs of administering this Settlement and attorneys' fees and expenses (*see* Questions 21 and 22), the remaining Settlement Fund will be distributed to Class Members whose claims are approved by a Court-appointed Neutral (*see* Questions 13). In addition to cash payments, the Settlement will also provide reductions or forgiveness of USDA loans for certain Class Members who qualify.

A complete description of what the Settlement provides is in the Settlement Agreement. You can get a copy of the Settlement Agreement by visiting www.BlackFarmerCase.com, or by calling toll-free, 1-800-XXX-XXXX.

11. How much will I be paid?

The actual payments for successful claims cannot be determined yet. The amount of money people who file successful claims are eligible to receive will depend on whether they file a claim under Track A or Track B. The actual amount any Class Member will receive will also depend on how many successful claims there are.

Track A – Establishes an expedited claims process that will provide people who file successful claims with a cash payment of up to \$50,000, plus a payment to be applied to debt owed (if any) to USDA, plus a tax payment worth 25% of that person's cash and loan awards (*see* Question 12).

Track B – Establishes a more rigorous claims process that will allow people who file successful claims an opportunity to receive actual damages up to \$250,000 (*see* Question 12).

It is important to note that Congress has approved a limited amount of money for this Settlement. Additionally, there is an overall limit of \$100 million to pay Track B claims. Therefore, the cash payments that Class Members will receive could be significantly less than \$50,000 for successful Track A claims and significantly less than \$250,000 for successful Track B claims.

This chart summarizes what benefits are available for claims under Track A and Track B:

BENEFIT	TRACK A	TRACK B
Cash payment	Up to \$50,000 (although your actual amount could be significantly lower)	Up to \$250,000 (although your actual amount could be significantly lower)
Payment to IRS for taxes owed on cash payment	Up to \$12,500 (although your actual amount could be significantly lower)	Not available
Loan reduction or forgiveness payment to USDA for outstanding farm loans	Depends on your claim and what loans you still owe money on	Not available
Payment to IRS for taxes owed as a result of USDA loan reduction or forgiveness payment	25% of your loan reduction or forgiveness payment	Not available

Money to reduce or discharge outstanding USDA loans will be sent directly to the USDA.

Late-Late Filers could receive lower payments than Late Filers. Late-Late Filers may receive only 70% of what Late Filers receive unless there is enough money in the Settlement to pay all Late-Filers in full. If there *is* enough money to pay all Late Filers in full, then Late-Late Filers could receive more than 70% of what Late Filers receive.

12. What is the difference between the Track A and Track B claims processes?

If you believe you suffered economic loss greater than \$50,000 you may choose to submit your claim under “Track B.” In order to be successful under Track B, you will be required to show, with supporting documents, that:

- You experienced discrimination in a USDA loan or benefit program at any time between January 1, 1981 and December 31, 1996 (meaning you meet all the criteria listed in Question 9 above);
- The treatment of your loan application(s) by USDA was less favorable than application(s) filed by a white farmer under similar circumstances (for this element, your supporting document may be a statement signed under oath by a non-family member who has personal knowledge of that less favorable treatment); **and**
- You complained between January 1, 1981 and July 1, 1997 to the USDA or other U.S. Government official about the discrimination (for this element, your supporting document may be a statement signed under oath by a non-family member who has personal knowledge that you complained).

The standard of proof for Track B claims is a higher standard than the one that will be applied to Track A claims. This standard requires that you submit documents to support your claim. **If you choose to submit a Track B claim and are not successful, you will not be able to receive a Track A payment or loan reduction or forgiveness.**

13. Who will decide whether I am eligible for an award?

After you have submitted a Claim Form, it will be reviewed by the Court-approved Claims Administrator to determine if you are a Class Member and whether all of the required information has been provided. If the Claims Administrator determines that the Claim Form is complete and you are a Class Member, the Claim Form will be sent to a Court-appointed neutral person (“Neutral”). That Neutral will review your Claim Form and other evidence you submit and decide whether you have met the requirements for an award under the Settlement. The decision of the Neutral will be final and binding. You cannot appeal the Neutral’s decisions.

14. What USDA loans are eligible for reduction or forgiveness?

You will be eligible for loan reductions or forgiveness only if the Neutral determines that you are eligible for a Track A cash payment. Only those loans in programs that form the basis for your successful Track A claim are eligible for reduction or forgiveness. More information about what USDA loans are eligible can be found in Section X of the Settlement Agreement. Your lawyer will help you determine which of your loans are eligible, if any.

People who file Track B claims are not eligible for any loan reductions or forgiveness (*see* Question 11).

15. Can I get another farm loan if I get a loan reduced or forgiven?

Yes. Even if you have loans reduced or forgiven, you will be eligible to be considered for new loans from the USDA.

16. What happens if the Court does not approve the Settlement?

If the Court does not approve the Settlement, then it will not become effective and the lawsuit will not move forward as a class action. Instead, you will have to proceed with your own claim separately in the

federal court in Washington, DC. If that happens, the amount available to pay **all** successful claims will be limited to \$100 million. The Court will announce its decision approving or rejecting the proposed Settlement after the Fairness Hearing (*see* Question 26).

THE LAWYERS REPRESENTING YOU AND HOW TO FILE A CLAIM

17. How do I become eligible to receive a payment?

In order to be eligible to receive an award under the Settlement, you will need to file a Claim Form with the Claims Administrator within 180 days after the Court finally approves the Settlement. That date is not yet set, but could be as early as **Month 00, 2012**. If your Claim Form is received after that date, it will not be reviewed and you will not receive any award. You should start the process of filing a claim as soon as possible.

In order to begin the claims process, you should call the Claims Administrator at 1-800-xxx-xxxx. A representative will take certain information from you and provide you with information about speaking with a lawyer (Class Counsel, as described in Question 19) for help with completing the Claim Form. If you choose to do so, you may get a Claim Form on your own and complete it by yourself or with the help of your own attorney. You can get a Claim Form by:

- Calling: 1-800-xxx-xxxx (or any of the attorneys listed in Question 19)
- Visiting: www.BlackFarmerCase.com
- Writing: [P.O. Box info]

18. Do I have to hire a lawyer to help me fill out the Claim Form?

No, but it is strongly recommended that you consult a lawyer to help you complete your Claim Form. The Court has appointed lawyers to be available to assist you, at no “out-of-pocket” cost to you (*see* Question 19). You may also hire your own lawyer (*see* Question 20). If a lawyer helps you complete your Claim Form, he or she will need to sign the Claim Form before it is submitted to the Claims Administrator.

19. Do I have a lawyer in the case?

Yes. The Court has appointed the following lawyers to represent you and other Class Members as “Class Counsel”:

[counsel]	[counsel]
-----------	-----------

You do not need to pay any of your own money, or any part of money you receive from the Settlement, to have Class Counsel represent you. Class Counsel will be paid for their work on your behalf from the funds being provided in this Settlement (*see* Question 21). Class Counsel will assist you in filling out and filing the Claim Form with the Claims Administrator **at no out-of-pocket charge to you**, as well as answer any questions you may have about the Settlement.

You are encouraged to contact Class Counsel directly, or call the Claims Administrator at 1-800-xxx-xxxx to find out which Class Counsel you should contact.

Do not be pressured into paying money for help in completing a Claim Form! The Court has already appointed Class Counsel to assist you at no out-of-pocket cost to you. If you do not want Class Counsel to assist you, you may hire your own lawyer, but that lawyer must agree to be paid a limited amount from the Settlement money you receive (*see* Question 22).

20. May I talk to Class Counsel in person about the Settlement and my claim?

Yes. The Claims Administrator will provide your contact information to Class Counsel, who will contact you. You also may contact Class Counsel on your own at 1-8XX-XXX-XXXX. Additionally, Class Counsel will hold numerous meetings throughout the country to help Class Members fill out Claim Forms. If you are unable to attend one of these meetings and meet with Class Counsel, you are encouraged to contact Class Counsel for help in completing the Claim Form.

21. How will Class Counsel be paid?

Class Counsel will ask the Court for attorneys' fees and expenses of between 4.1% and 7.4% of the Settlement Fund. The request for attorneys' fees and expenses will be submitted to the Court by no later than **Month 00, 2011**. The Court must approve any requests for fees and expenses.

22. May I use my own lawyer instead of Class Counsel?

Yes. However, the Court has decided that prior fee agreements or contracts you may have signed are no longer binding. If you still want to be represented by your own lawyer, you may hire one at your own expense. That lawyer must agree in writing to follow the Court's orders in this case.

If you hire your own lawyer, that lawyer's fee will be subtracted by the Claims Administrator from the amount you receive from the Settlement. There are limits on what that fee may be:

- If you hire your own lawyer to file a Track A claim, the lawyer may not require you to pay him or her more than 2% of the money you receive under the Settlement as the lawyer's fee.
- If you hire your own lawyer to file a Track B claim, the lawyer may not require you to pay more than 8% of the money you receive under the Settlement as the lawyer's fee.

23. When will I get my payment?

No payments will be made until all claims have been decided. That means that it could be two years or perhaps even longer before Class Members who submit valid claims will receive any payments.

24. Am I giving up any rights under the Settlement?

Yes. If the Court gives final approval to the Settlement, whether or not you file a claim, you will not be able to sue or continue to sue the USDA for the discrimination claims being resolved by this Settlement.

The specific claims you are giving up are described in Section X of the Settlement Agreement. The Settlement Agreement specifically describes the released claims, so read it carefully. If you have any questions you can talk to the law firms listed in Question 19 for free or you can talk to your own lawyer at your own expense.

OBJECTING TO THE SETTLEMENT

25. How do I tell the Court if I don't like the Settlement?

If you are a Class Member you can tell the Court that you do not like the Settlement or some part of it. This is called "objecting to the Settlement." For example, you can say that you don't think the Settlement is fair or adequate, or that you object to the amount of the attorneys' fees and expenses. The Court will consider your views, but may approve the Settlement anyway.

To object, you or your lawyer must send a letter that contains all of the following:

- The name and title of the lawsuit, *In re Black Farmers Discrimination Litigation*, No. 08-mc-0511;
- A statement explaining the basis for your belief that you are a Class Member and eligible for an award under the Settlement;
- A statement of each objection you have and the basis for those objections;
- A description of any law or case supporting the objections;
- A statement of whether you or your lawyer wish to appear at the Fairness Hearing to talk about your objections, and, if so, how long you will need to present your objections; and
- Copies of any documents you or your lawyer will present at the Fairness Hearing.

Your objection letter must be postmarked by **Month 00, 2011** and mailed to **all three** of these addresses:

CLERK OF THE COURT	LEAD CLASS COUNSEL	DEPARTMENT OF JUSTICE (COUNSEL FOR USDA)
Clerk of the Court United States District Court District of Columbia [address]	Lead Class Counsel [address]	DOJ [address]

Your lawyer may obtain a copy of the Order containing these additional requirements at www.BlackFarmerCase.com or by calling 1-800-xxx-xxxx.

Any objection that does not meet these requirements may be rejected by the Court.

THE COURT'S FAIRNESS HEARING

26. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Fairness Hearing at X p.m. on **Month 00, 2011** at the United States District Court for the District of Columbia, United States Courthouse, [ADDRESS]. At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court also will consider any objections and Class Counsel's request for attorneys' fees and expenses. After the Fairness Hearing, the Court will decide whether to approve the Settlement and the range of fees and expenses it will award to Class Counsel out of the Settlement Fund.

27. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to attend the hearing at your own expense. If you send in a written objection, you do not have to come to the Fairness Hearing to talk about it. As long as your objection meets the requirements discussed above, the Court will consider it. You also may pay your own lawyer to attend the Fairness Hearing, but that is not necessary.

28. May I speak at the hearing?

Yes. You may ask the Court for permission to speak at the Fairness Hearing. You may also hire an attorney to speak for you. If you (or your lawyer) want to speak at the hearing you must give the Court a paper that is called a "Notice of Appearance." The Notice of Appearance should say that you intend to speak at the hearing in *In re Black Farmers Discrimination Litigation*, No. 08-mc-0511. Your Notice of Appearance must be mailed by **Month 00, 2012** to the three addresses listed in Question 25.

IF YOU DO NOTHING

29. What happens if I do nothing at all?

If you do nothing, you will not get any money or loan forgiveness from the Settlement. You must submit a Claim Form to get a payment. If the Court approves the Settlement, you will give up your right to sue the USDA about the discrimination claims being resolved by this Settlement.

GETTING MORE INFORMATION

30. How do I get more information about the Settlement?

This Notice summarizes the Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement at www.BlackFarmerCase.com or by contacting the Claims Administrator.

Claims Administrator Contact Information

Call: [toll-free #]

Visit: www.BlackFarmerCase.com

Write:
[P.O. Box Info]

NP APPENDIX 6:
PUBLICATION NOTICE

If You are African American and Suffered Farm Loan Discrimination by the USDA between 1981 and 1996,

You may be eligible for money from a \$1.25 billion class action Settlement Fund (Heirs/Kin may be included)

There is a proposed class action Settlement with the U.S. Department of Agriculture (USDA) involving racial discrimination against African American farmers between 1981 and 1996. **This Settlement is only for certain people who tried to file a late claim in the original *Pigford* case, or their heirs (kin) and legal representatives.** The current Settlement (sometimes called *Pigford II*) provides benefits to some of those late filers.

Am I included?

You may be included if you:

- Between 1981 and 1996, were discouraged or prevented from applying for or were denied a USDA farm loan or other benefit, or you were given a loan with unfair terms because of racial discrimination,
- Were eligible for a payment in the original *Pigford* case, **and**
- Submitted a late-filing request that was denied or never considered because it was late.

If you are the heir or kin of someone who died who fits this description, you may file a claim for a payment that would become part of the deceased person's estate. If you are not sure if you (or someone for whom you are the legal representative) are included, please call 1-800-000-0000. **You are not included if you received a payment in the original *Pigford* case.**

What does the Settlement provide?

You may be eligible for a substantial cash payment and USDA loan forgiveness from the Settlement. You will need to file a claim to be eligible for these benefits. The claims deadline may be as early **Month 00, 2012**. The Court has appointed lawyers to help you file a claim under the Settlement. You do not have to pay them or anyone else to help you with the claims process. These attorneys will ask the Court for fees and expenses of between 4.1% and 7.4% of the Settlement Fund, and the Court will decide how much they are paid. You may hire your own lawyer, if you wish, at your own expense. If you have questions or need more information, call 1-800-000-0000.

What else should I know?

The Court will hold a hearing on **Month 00, 2011** to consider whether to approve the Settlement and a request for attorneys' fees and expenses. If you want to object to or comment on the Settlement or appear at the hearing, you need to send a letter to the Court by **Month 00, 2011**. If the Court approves the Settlement, you will not be able to sue the USDA about your farm loan discrimination claims in the future.

For more information or to begin the claims filing process:

Call: 1-8XX-XXX-XXXX

Visit: www.BlackFarmerCase.com

NP APPENDIX 7:
RADIO AD

RADIO AD SCRIPT

:60 second

This is a Court-ordered legal notice. A 1.25 billion-dollar proposed settlement has been reached with the federal government about claims of racial discrimination by the U.S. Department of Agriculture. If you are African American and were denied a farm loan or other benefit or received a loan with unfair terms from the USDA between 1981 and 1996, you could be eligible for a cash payment and USDA loan forgiveness. To qualify, you must have tried to file a claim that was considered late in the original *Pigford* black farmers discrimination case. If you fit this description or you are the heir or kin of someone who did, you should learn about the settlement, your legal rights, and how to file a claim. Deadlines will pass soon and this is your final chance for a payment. For more information, go to Black Farmer Case dot com or call 1-800-000-0000. That's 1-800-000-0000.

NP APPENDIX 8:
PUBLIC SERVICE ANNOUNCEMENTS

PUBLIC SERVICE ANNOUNCEMENT SCRIPTS

:60 second

This is a Court ordered notice. Thousands of black farmers who were discriminated against by the USDA may be eligible to get a cash payment and USDA loan forgiveness from a \$1.25 billion Settlement. You may be included in the Settlement if you are African American and were denied a farm loan or other benefit or received a loan with unfair terms from the USDA between 1981 and 1996. To qualify, you must have tried to file a claim that was considered late in the original *Pigford* black farmers discrimination case. If you fit this description or you are the heir of someone who did, you should learn about the settlement, your legal rights, and how to file a claim. The earliest deadline to act on your rights is Month 00, 2011. For more information, go to Black Farmer Case dot com or call 1-800-XXX-XXXX. That's 1-800-XXX-XXXX.

:30 second

This is a Court ordered notice. Thousands of black farmers who were discriminated against by the USDA may be eligible to get a cash payment and USDA loan forgiveness from a \$1.25 billion Settlement. If you are African American farmers who tried to get a farm loan or other benefit from the USDA between 1981 and 1996, you may be included in this Settlement. To learn more about the Settlement go to Black Farmer Case dot com or call 1-800-XXX-XXXX. That's 1-800-XXX-XXXX.

:20 second

Thousands of black farmers who were discriminated against by the USDA may be eligible to receive a cash payment and USDA loan forgiveness from a \$1.25 billion Settlement. To learn more go to Black Farmer Class dot com or call 1-800-XXX-XXXX.

:20 second (alternate – script for live reads only if required by station)

Today's program is sponsored by the Black Farmers Discrimination Settlement - Informing African Americans who tried to get a farm loan or other benefits from the USDA between 1981 and 1996, that they may get benefits from a proposed settlement of discrimination claims. To learn more go to Black Farmer Case dot com or call 1-800-XXX-XXXX.

EXHIBIT 6

to the

**Memorandum of Points and Authorities in Support of
Plaintiffs' Motion for Preliminary Approval of Settlement,
Certification of a Rule 23(b)(1)(B) Class,
And for Other Purposes**

In re Black Farmers Discrimination Litigation
Case No. 08-mc-0511-PLF (D.D.C.)

Order of July 14, 2000

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

JUL 14 2000

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

TIMOTHY C. PIGFORD, et al.,

Plaintiffs,

v.

DAN GLICKMAN, SECRETARY,
THE UNITED STATES DEPARTMENT
OF AGRICULTURE,

Defendant.

Civil Action No.
97-1978 (PLF) ✓

CECIL BREWINGTON, et al.,

Plaintiffs,

v.

DANIEL R. GLICKMAN,

Defendant.

Civil Action No.
98-1693 (PLF)

STIPULATION AND ORDER

WHEREAS on April 14, 1999 this Court approved and entered a Consent Decree in these consolidated actions that is designed to bring resolution and finality to the claims of race discrimination of those class members who opted to have their claims resolved under the adjudication or arbitration processes provided in the Consent Decree; and

WHEREAS the Consent Decree provided for a national, multimedia advertising campaign that commenced in January 1999 and was designed by advertising professionals to ensure that notice of the terms of the Consent Decree would receive the widest possible

dissemination in a manner targeted specifically at class members; and

WHEREAS the Consent Decree provided a six-month period, commencing upon the Court's approval of the Decree on April 14, 1999 and ending on October 12, 1999, for persons to apply for class membership, and that, in fact, the Facilitator began receiving Claim Form and Election Sheets upon commencement of the advertising campaign in mid-January 1999; and

WHEREAS more than 24,000 claim forms were filed with the Consent Decree Facilitator during the nine-month period beginning with the commencement of the advertising campaign in mid-January 1999 and ending with the close of the period for filing claim forms in mid-October 1999; and

WHEREAS since the period for filing claim forms ended, thousands of additional persons have either filed Claim Form and Election Sheets, or requested them, in an effort to participate in the Consent Decree's claims resolution processes, and a significant number of persons who filed timely but deficient claim forms corrected their claim form deficiencies after the close of the period provided in the Consent Decree for filing claim forms; and

WHEREAS by Order dated December 20, 1999 this Court delegated to Michael Lewis the Court's authority to approve or deny petitions for late filing of Claim Sheet and Election Forms under

¶ 5(g) of the Consent Decree, and

WHEREAS a substantial number of the class members whose Track A and Track B claims have been, or will be, decided adversely to them have, or are expected to, petition the Monitor for review pursuant to ¶ 12(b)(iii) of the Consent Decree;

NOW, THEREFORE, plaintiffs and defendant hereby agree and stipulate as follows:

1. All timely filed but defective Claim Sheet and Election Forms that were corrected and resubmitted after the conclusion of the period prescribed by ¶ 5(c) of the Consent Decree - October 12, 1999 - shall be deemed to have been timely filed within the period prescribed by ¶ 5(c). Putative class members who did not submit a Claim Sheet and Election Form to the Facilitator within the period prescribed by ¶ 5(c) shall not be permitted to participate in the Consent Decree's adjudication or arbitration processes unless they are found to have satisfied the requirements of ¶ 5(g) of the Decree.

2. All putative class members who seek relief under ¶ 5(g) of the Consent Decree shall submit written requests for such relief to the Facilitator - without a Claim Sheet and Election Form - postmarked not later than September 15, 2000. No extensions of that deadline will be granted for any reason.

3. Michael K. Lewis, the Decree's Arbitrator, is hereby delegated this Court's authority to determine whether requests for

relief under ¶ 5(g) of the Consent Decree that were filed after January 31, 2000 and before September 15, 2000 satisfy the requirements of that provision.

4. A putative class member whose request for relief under ¶ 5(g) is granted by Michael K. Lewis will be sent a letter and a Claim Sheet and Election Form by Mr. Lewis. The putative class member must file a completed Claim Sheet and Election Form with the Facilitator that is postmarked not later than 60 days from the date of the letter notifying the class member that his/her request for relief has been granted. No extensions of that deadline will be granted for any reason.

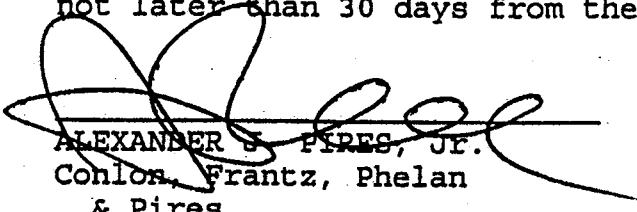
5. Any party who received a wholly or partially adverse decision under Track A or Track B as of the date of this Order shall have 120 days from the date of this Order to petition the Monitor for review under ¶ 12(b)(iii) of the Consent Decree. Any party who, after the date of this Order, receives a wholly or partially adverse decision under Track A or Track B shall have 120 days from the date of such decision to petition the Monitor for review under ¶ 12(b)(iii) of the Consent Decree. No extensions of these deadlines will be granted for any reason.

6. Any party who receives a wholly or partially adverse decision under Track A or Track B shall be entitled to file only one petition for review under ¶ 12(b)(iii) of the Consent Decree, and neither the Monitor's decision on the petition for review, nor

the decision of the Adjudicator or the Arbitrator upon reconsideration shall be subject to further review of any type in any forum.

7. Copies of this Stipulation and Order shall be (a) posted in a conspicuous public place in every USDA Farm Services Agency county office; and (b) mailed by the Facilitator to every person who (i) requested a Claim Sheet and Election Form and (ii) did not submit a completed Claim Form to the Facilitator within the period prescribed by ¶ 5(c) of the Consent Decree.

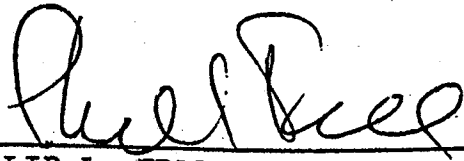
8. Any person who objects to any aspect of this Stipulation and Order shall submit his/her objections to the Court in writing not later than 30 days from the date of the entry of this Order.



ALEXANDER S. PIRES, JR.
Conlon, Frantz, Phelan
& Pires
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Of Counsel:
J.L. Chestnut
Othello Cross
Willie Smith
Gerald R. Lear
Hubbard I Sanders, IV

It is so ORDERED

DATED: 7/13/00

DENNIS G. LINDER
Director, Federal Programs
Branch



MICHAEL SITCOV
CAROLINE LEWIS-WOLVERTON
Department of Justice
Civil Division
901 E Street, N.W.
Washington, D.C. 20004
(202) 514-1944



UNITED STATES DISTRICT JUDGE

July 19, 2000

EXHIBIT 7

to the

**Memorandum of Points and Authorities in Support of
Plaintiffs' Motion for Preliminary Approval of Settlement,
Certification of a Rule 23(b)(1)(B) Class,
And for Other Purposes**

***In re Black Farmers Discrimination Litigation*
Case No. 08-mc-0511-PLF (D.D.C.)**

**Qualifications
of Epiq Systems, Inc.
(Proposed Claims
Administrator)**



Epiq Systems Inc.

Class Action & Claims Solutions

March 16, 2011

Submitted by:
Epiq Systems, Inc.
Class Action & Claims Solutions
10300 SW Allen Blvd
Beaverton, OR 97005

1.0 Introduction and Overview

Epiq Systems, Inc. is a leading provider of integrated technology products and services for the legal profession. Our software applications and Web-based platforms offer case management and document management solutions for legal notification, claims administration, and controlled disbursement.

Top law firms, corporate legal departments, bankruptcy trustees, and other legal professionals rely on Epiq Systems for full lifecycle support of administratively complex matters spanning bankruptcy, class action, settlements, financial transactions, litigation and regulatory compliance. We offers clients extensive professional services based on deep subject matter expertise and years of firsthand experience working on many of the largest, most high profile and complex client engagements.

Epiq Systems, Inc. has nine locations in the United States and United Kingdom and trades on the NASDAQ national market under the symbol EPIQ.

Epiq Systems offers a comprehensive solution from case startup and noticing, through the disbursement and closeout phases of a project. Utilizing proven project management methodologies, Epiq's skilled team of Project Managers and Client Services professionals ensure accuracy, timeliness, and cost efficiency for clients.

1.1 Company Information

Epiq Class Action & Claims Solutions, Inc. (Epiq) is an industry leader in class action and mass tort claims administration, especially in matters with specialized implementation requirements. While Epiq administers cases of all sizes and scope, we are recognized as the leader in large and complex case administration. Epiq's Portland facility is a 98,000 square foot building with on-site call center, on-demand printing, and mail center.



Our success stems from our development and repeated enhancement of case management tools and project management methodology targeted to the legal administration market, backed by the power of our proprietary software application - ClaimsMatrix™. Our experts pioneered the class action claims administration process and designed our approach based on unmatched depth of experience, identifying best practices, putting controls in place, and then replicating and refining this process for decades, across hundreds of cases. Our process provides an unmatched, end-to-end class action approach to claims administration.

Worldwide, Epiq employs over 600 subject-matter experts, paraprofessionals, software engineers, project managers and claims specialists. Of these 600, more than 175 are employed in our dedicated processing facility in Oregon.

1.2 Project Management Plan and Implementation

After a project is awarded to Epiq, a project team is assembled to work with the client to document eligibility rules for the matter, coordinate data transfer, and begin the initial process. The Project Manager assigned to a project develops a comprehensive Project Management Plan, focusing on meeting all key deliverables, milestones, and ensure quality and accurate execution of all tasks.

Clients have direct access to a Project Manager at Epiq who handles day-to-day communication and coordinates the various administrative tasks. All case activity and status updates will be available through the Project team.

To implement the project successfully, Epiq leverages its capabilities from startup to closeout to complete all services within the scope of the contract. These areas are described in the section below, along with details relevant to each section.

1.2.1 Claims Support & Contact Center

Epiq has a full service, in-house contact center in its Portland, Oregon facility with a 200-seat for call center agents and 24x7 flexibility for caller support, depending on a project's needs. The call center is nimble and flexible with real-time monitoring and alerts to managerial staff. Because the technology is 100% hosted in-house, call flow, message recording, and system changes are managed internally with the benefit of faster turn-around and lower costs. The contact center also provides real-time chat solutions and email support. The system employs VOIP (Voice-Over Internet Protocol) technology that has many benefits over more traditional call center solutions. Managers are more aptly served through the use of this technology, because they can maximize the use of call center staff while ensuring a pleasant and time-sensitive experience for the caller. Epiq employs seasoned agents who have interacted with callers on hundreds of settlements Epiq has administered. With that experience, there is an unparalleled expertise we pass on to our callers. Interaction with the call center is one of speaking with coherent, courteous and knowledgeable agents who help you to navigate the often complex and multi-phased components usually inherent in a settlement claim. To further ensure the quality of the experience and the accuracy of the information disseminated, calls are anonymously monitored both real-time and after-the-fact through digital call recordings.

Agents have multiple tools available to assist in the delivery of information to callers. Ready Reference® is an intranet-based tool that "scripts" information about the relevant settlement through questions and answers of the most commonly discussed topics. Ready Reference® is an organic, interactive knowledge management tool that is updated as the settlement progresses. Call Center Agents also see available information about the incoming call – including the incoming phone number, length of time in queue and total length of the call. This

can be helpful to the agent in understanding the caller's immediate experience and better informs their interaction with the caller.

While the capacity to expand is not always a critical factor, distinction with Epiq comes with the quality of agents, depth of relevant experience and access to the tools that maximize the callers' experience. With our prior case experience and already-trained call center agents, clients can rest assured that the callers' experiences will be accurate, pleasant and efficient. With real-time monitoring, Epiq is also able to allocate staff as needed to a particular program – all dependent on the amount of incoming calls, number of calls in queue and average hold time. Staffing projections and budget monitoring are also better informed given the detailed, historical information routinely available.

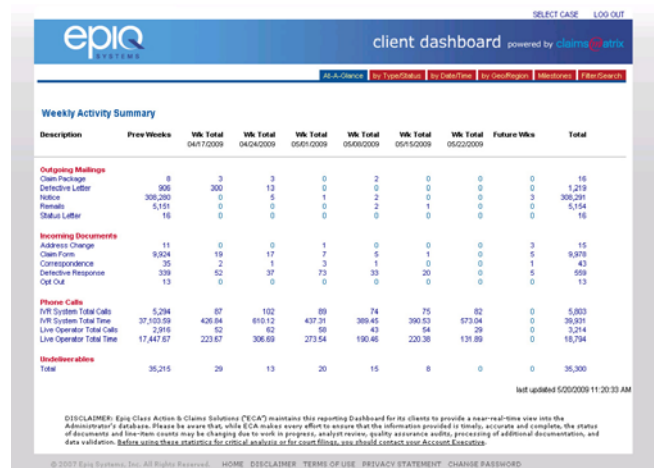
1.2.2 Administrative Services

Communication between Clients and the Epiq team will be primarily conducted through the Project Manager at Epiq. Occasionally, additional team members may be responsible for delivery of required reports, data transmittals, and draft communication with claimants. One or more Project Coordinators reporting to the Project Manager oversee key functional activities such as notice mailing fulfillment, correspondence handling, weekly activity reporting, contact center quality assurance, and website updates.

Claims administration projects are supported by case services departments, including Document Control, Data Capture, and Claims Operations. Support staff in Document Control are responsible for the receipt, opening, intake, tracking and routing of all incoming mail. All mail pieces are tracked using unique document numbers or mail identification numbers for quality assurance, SLA monitoring, and proper workflow assignment.

After intake and logging, documents are moved to OCR/Scanning for data capture and imaging. Depending on process flow for a project, images are then routed for further review and processing by Claims Operations or the Client Services case team managing the project.

Key statistics about Epiq's internal processes and activities are available to clients via a secure, near-real-time reporting portal called Dashboard. The Dashboard is linked to production databases in ClaimsMatrix™ and provide for secure access to At-a-Glance counts, search functionality, reporting, and access to the images of documents received.



epiq client dashboard powered by **claimsMatrix**

At-A-Glance | By Type/Status | By Code/Time | By Count/Range | Milestones | Filter/Search

Weekly Activity Summary

Description	Previous Week	Wk Total 04/11/2009	Wk Total 04/20/2009	Wk Total 05/01/2009	Wk Total 05/09/2009	Wk Total 05/15/2009	Wk Total 05/22/2009	Future Wk	Total
Outgoing Mailings									
Claim Package	8	3	3	0	2	0	0	0	16
Defective Letter	906	300	13	0	0	0	0	0	1,219
Notice	308,293	0	6	1	2	0	0	3	308,291
Remain	5,151	0	0	0	2	1	0	0	5,154
Status Letter	16	0	0	0	0	0	0	0	16
Incoming Documents									
Address Change	11	0	0	1	0	0	0	3	15
Claim Form	9,924	19	17	7	5	1	0	5	9,978
Correspondence	35	2	1	3	1	0	0	1	43
Defective Response	339	52	37	73	33	20	0	5	559
Opt Out	13	0	0	0	0	0	0	0	13
Phone Calls									
IVR System Total Calls	5,294	87	102	89	74	75	82	0	5,803
IVR System Total Time	37,103.09	426.04	610.12	437.31	369.45	390.53	573.04	0	39,931
Live Operator Total Calls	3,916	52	62	59	43	54	29	0	3,214
Live Operator Total Time	17,447.67	223.67	306.69	273.54	190.46	220.38	131.89	0	18,784
Unavailable calls									
Total	35,215	29	13	20	15	8	0	0	35,300

last updated 5/20/2009 11:20:33 AM

DISCLAIMER: Epiq Case Action & Claims Solutions ("ECA") maintains this reporting Dashboard for its clients to provide a near-real-time view into the Administrator's database. Please be aware that while ECA makes every effort to ensure that the information provided is timely, accurate and complete, the status of documents and functions listed may be changing due to work in progress, analyst review, quality assurance, auditing, processing of additional documentation, and data validation. Before using these statistics for critical analysis or for court filings, you should contact your Account Executive.

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1.2.3 Claims Review and Eligibility Determination

Epiq reviews submitted claims forms and any accompanying documentation under strict service level timelines to determine the timeliness, completeness and eligibility. At project launch, business rules and processing workflows are created based on the terms of the Settlement Agreement and in consultation with the parties. Experienced analysts in the Claims Operations group, ranging from document review specialists to lawyers, review the claims forms and conduct quality assurance sampling and audit. Depending on the claim form requirements and established evidentiary review, Epiq will also route the claim and documentation to other neutrals and the parties, as needed, and track response deadlines and responses. In the Pigford Settlement, Epiq, as Facilitator, is the records custodian and responsible for screening the Claim Sheet and Election Forms for class membership eligibility, as well as the entity that routes claims and claim responses to USDA, the Adjudicator, the Arbitrator, and the Monitor.

Epiq sends letters to claimants on a rolling basis to notify of any deficiencies with a submission. The incomplete claim notices include specific details and explanations on how to remedy any deficiencies and a clear, plain language statement about the deadline by which a response is required to be deemed accepted. Epiq uses internal case management tools to track and monitor processing timelines and ensure any such claimant communications are mailed in a reasonable timeframe and with adequate time to respond, adhering to any settlement terms.

1.2.4 Distribution Services

Following the completion of all required steps for claims review and final determinations, Epiq coordinates the payment of settlement awards through distribution of checks, or other forms of award or compensation, to prevailing claimants. All checks are printed in-house by Epiq, ensuring quick and accurate payment to all eligible claimants once payment amounts have been approved.

Epiq has breadth of experience in the distribution of awards on qualifying claims. Fund management and disbursement services are handled on-site by accounting and tax professionals. Rigorous controls are followed that exceed banking and federal government-sector security and audit standards.

Checks are printed on-site with MICR encoding and secure check stock. All financial instruments are handled with dual custody and in areas secured by access keys and recorded digital camera monitoring. Daily account reviews are conducted and positive pay presentments escalated to the business unit. Monthly reconciliations and account reporting will be made available for review.

The following are services that Epiq can provide to aid in meeting tax requirements for a Qualified Settlement Fund if relevant:

- Complete Form SS4 to establish TIN for fund.
- Summarize activity in Settlement Fund for preparation of U.S. Income Tax Return.

- Estimate and make quarterly payments to qualified depository in timely manner.
- Prepare Form 1120-SF for qualified settlement fund and file with necessary payments.
- Respond to any communication from the IRS and provide representation at any meetings and/or examinations concerning the settlement funds by the IRS.

2.0 Infrastructure Use and Data Security

Epiq offers comprehensive technical capabilities to deliver a complete solution for a project. Our technical services group has vast experience handling the most sensitive and complex data and applications for clients across a range of industries, from financial and healthcare to manufacturing and services. Our infrastructure, processes, and procedures have passed the rigorous, independent audits of bank and insurance clients. We conduct independent third-party control audits and have current SAS 70 audit reports available.

Epiq has extensive experience and has led the way technically in the administration of large and complex legal matters. We have had numerous cases in which we have demonstrated performance in on-line claims filing, electronic noticing and interactive claims administration where multiple parties participate in a multi-step adjudication process. Our applications can be engineered to integrate all phases of administration including the tracking and escalation of claimant phone calls and inquiries.

Epiq has also been a pioneer in on-line claims filing. We understand the unique care this area requires, and we have experience with a variety of approaches, depending on the class member demographic, the settlement terms, and business rules. For example, solutions for on-line claims filing can be as simple as providing a Claim Form that can be filled out on-line, tracked in the database, printed, signed and mailed by the client for processing and adjudication. It can also be a completely on-line experience where claimant authentication is required and access to claimant specific data is used to help the claimant file the claim electronically.

Epiq Systems maintains hundreds of millions of rows of data across a wide range of classifications. For sensitive data, including Personally Identifiable Information (PII), Epiq's data management systems not only meet, but exceed, information security and data management regulations as specified by SAS-70, FISMA, HIPAA, DIACAP, and PCI-DSS. Additionally, Epiq Systems' approaches to meet various information security requirements also meet Secret and Below Interoperability (SABI) compliance requirements.

Epiq utilizes pre-existing management processes, years of operations and maintenance experience with complex systems, and proven infrastructure to deliver the most value to the client. The systems that we utilize support 24/7 operations, are architected for redundancy (i.e., no critical single points of failure), and have a business continuity management strategy in place.

Epiq takes the protection of personal information very seriously. Epiq will receive encrypted data files from clients using SSH File Transfer Protocol or SFTP. The data elements sent by the client may vary from case to case and may include personally identifiable information (PII) such as: full name, address, telephone numbers, date of birth, and social security number.

Once Epiq has retrieved the data, it will be processed and stored in Epiq's secure network. Epiq uses a Microsoft SQL Server 2008 platform for data storage, and our database and application solution includes the SAS 70 certification and Sarbanes-Oxley coverage. Epiq staff, including processing and technical support personnel, will have access to the ClaimsMatrix™ Database. IT specialists and Epiq technical and operational program managers will access ClaimsMatrix™ and the ClaimsMatrix™ Database to ensure system performance and to audit the use of the system. All of these users and other authorized users, whose identity and need for access have been validated, will have varying levels of access to ClaimsMatrix™.

Epiq maintains access levels at the physical, software, and database levels. In addition to the many layers of data security, Epiq data processing facilities are physically secured – at the perimeter and within datacenters – through the use of electronic key cards and monitoring equipment. All employees must display badges at all times. Anyone visiting our facility must sign in and out, and be accompanied by an employee at all times.

3.0 Key Personnel

Several factors distinguish Epiq Systems as the provider of choice. In addition to our qualifications and proven past performance, Epiq employs a team of skilled and qualified industry experts in the legal noticing and claims administration fields, as well as an array of professionals with years of contact center, application development, and data analysis experience. Combined with the resources available to Epiq as an industry leading provider of claims administration and legal noticing services, this team's strengths will ensure timely, accurate, and successful execution.

To support the Black Farmers Discrimination Litigation, Nicole Hamann, Vice President of Client Services, will oversee the project.

Richard Bithell, Esq., will be the assigned Project Manager. Richard managed the day-to-day activities on the Pigford matter for many years and has a multitude of experience on discrimination cases, as well as other matters. He is a licensed attorney and will oversee all aspects of case administration, including design and implementation of the business rules, budgeting, personnel management, and quality assurance.

4.0 Past Performance

Epiq is a neutral claims administrator that facilitates the claims administration process under the terms of a negotiated settlement and with direction from the parties. Epiq's depth of case experience, claimant support services, and understanding of the practical implications of the terms of a negotiated Settlement Agreement provide for expert consultation and recommendations to achieve your goals.

With over 40 years of experience in data management and claims administration, and a highly qualified team of subject matter experts, choosing Epiq ensures timely, accurate, efficient and cost effective administration of class action settlements.

Epiq has handled hundreds of complex administration matters and currently hosts more than



400 class action cases on the ClaimsMatrix™ platform. Annually, Epiq mails over 50 million pieces of first-class mail directly from our Portland facility, processes hundreds of thousands of documents, prints more than 15 million checks, and manages nearly \$2 billion in fund deposits.

Below are several highlights of relevant past projects administered by Epiq.

COURT-APPOINTED PIGFORD FACILITATOR

Epiq, formerly Poorman-Douglas Corporation (founded in 1968), was appointed as the Facilitator in 1999 for Pigford v Glickman and continues to serve in the role during the wind-down activities of the Settlement. Epiq processed and reviewed over 22,700 eligible claims and has maintained communications and documents for tens of thousands other members of the public. Epiq has paid over a billion dollars to prevailing claimants and coordinates with the IRS to facilitate appropriate tax deposit payments.

NTIA DTV CONVERTER BOX COUPON PROGRAM

When the United States transitioned to fully-digital television broadcasts, the National Telecommunications Information Administration (NTIA) was tasked with overseeing a legislative program to assist the consumer public with understanding the transition and to inform them of benefits, in the form of \$40 coupons, used to subsidize the purchase of a converter box should a US Household need them.

Epiq was selected as the Consumer Support and Coupon Distribution lead and provided several critical components in this national program, managing all consumer-facing activities, including

the program website and call center, the database and systems that supported application processing and coupon fulfillment, and the financial system of record.

As part of the solution, we deployed a Section 508 compliant and SSL-secure website capable of accepting applications for coupons, fetching coupon or application status or performing a localized retailer search. We also managed the toll-free hotline and supporting call center, running 24/7 operations during the nineteen months the program accepted requests for coupons. Finally, the program was in-part a success because we provided credit-card like coupon fulfillment with a fourteen day SLA – from intake of a coupon application to the coupons arriving in the mailbox of the US household, assuming eligibility and availability of funds.



Epiq processed over 43 million coupon applications received by web, phone, fax and mail, and mailed over 64 million coupon cards.

The contract was awarded on August 14, 2007 and the program launched on January 1, 2008. The entire program was designed, tested and implemented in less than 120 days.

HARTMAN CLASS ACTION SEX DISCRIMINATION CASE

The *Hartman v Albright* Settlement provided a \$508 million settlement fund to resolve claims against the United States Information Agency (USIA), including the Voice of America. It is a class action that was originally filed in 1977 on behalf of woman who had been denied employment in certain professional and technical positions at the former USIA. The case alleged that women had been denied entry into certain positions because of their sex, in violation of Title VII of the Civil Rights Act of 1964.

Epiq was selected as the Claims Administrator in 2000 and managed all aspects of class member support and complex multi-year awards, involving back pay and non-wage income. The payments required complex tax reporting and handling of awards and reporting for claimants domiciled outside the United States. The back pay under a statute required detailed communication and reporting with the Social Security Administration and behalf of payees, as well as handling many Estate claims due to the length of the litigation.

The final distribution was in 2004; however, Epiq remains in position as Claims Administrator to resolve IRS and SSA inquiries.

EXHIBIT 8

to the

**Memorandum of Points and Authorities in Support of
Plaintiffs' Motion for Preliminary Approval of Settlement,
Certification of a Rule 23(b)(1)(B) Class,
And for Other Purposes**

In re Black Farmers Discrimination Litigation
Case No. 08-mc-0511-PLF (D.D.C.)

Qualifications of The McCammon Group (Proposed Track A Neutral)

The McCammon Group, Ltd.

Since 1995 The McCammon Group, Ltd. (TMG) has been a leader in providing quality mediation, arbitration and related ADR services to disputing parties and their counsel throughout the Mid-Atlantic and the entire country.

TMG now consists of over seventy ADR Professionals, including retired judges and practicing attorneys. Selectively recruited and rigorously trained, these professionals are committed to helping parties and their counsel resolve disputes with better results, less cost, less time, and less acrimony.

Relying on the skills fundamental to ADR, TMG has developed services that go beyond individual case resolution. Specifically, it has been called upon to serve in significant court programs. For example, TMG's professionals have served as the sole source of neutrals involving claims in the bankruptcy proceedings of Best Products, Hechinger's, and Heilig Meyers. In 2009 TMG provided both mediation and arbitration services in resolving all the claims (excluding two) arising out of the Virginia Tech Massacre.

In related efforts, TMG has developed a Facilitation, Training, and Consulting Division that provides training, dispute resolution systems design, and related consulting services to corporations, non-profit organizations as well as federal, state, and local governments.

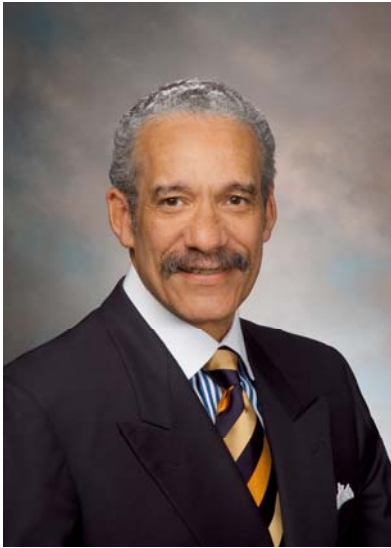
The cornerstone of all these services is TMG's commitment to quality in the selection and training of its professionals. Throughout their careers these professionals have stood as leaders of the legal profession and now as leaders in the field of ADR. More detailed information is available at www.mccammongroup.com.

Leading Professionals

The McCammon Group proposes that eight of its leading professionals serve in adjudicating the claims in this program. All of them have had exemplary legal careers and bring experience, judgment and integrity to this program. Their full resumes are attached.

Robert J. Grey, Jr.	former President, ABA
The Honorable Rufus G. King	former Chief, Superior Court of DC
The Honorable Elizabeth B. Lacy	former Justice, Supreme Court of Virginia
The Honorable Paul R. Michel	former Chief, Federal Circuit, U.S. Court of Appeals
The Honorable Barry R. Poretz	former U.S. Magistrate Judge, Alexandria Div., E.D. VA
The Honorable William C. Pryor	former Chief, DC Court of Appeals
Pauline A. Schneider	Partner, Orrick, Hennington & Sutcliffe LLP
Robert P. Watkins	Senior Counsel, Williams & Connolly

These professionals will make all the hard decisions. In so doing, they will be supported by the human and technological resources of TMG. Also assisting will be BrownGreer PLC, a national leader in claims processing. Under the leadership of these eight TMG professionals, BrownGreer's specially trained lawyers will address the more routine aspects of the claims process. (Please see page 10 for a profile of BrownGreer PLC.)



ROBERT J. GREY, JR., ESQUIRE

Areas of Experience

Administrative litigation involving franchising, licensing, and disciplinary matters before state agencies; legislative representation of trade associations and corporate interests before the Virginia General Assembly. Mediation experience includes personal injury, labor and employment, construction, public policy, and commercial disputes.

Credentials

- Partner, Hunton & Williams, Richmond and District of Columbia.
- Former President, American Bar Association, 2004-2005.
- Member, Council of the Section of Dispute Resolution, American Bar Association.
- Certified Mediator, Supreme Court of Virginia.
- Board Member, Legal Services Corp.
- Executive Director, Council of Legal Diversity.
- Chairman of the Board, Central and East European Law Initiative (CEELI), American Bar Association.
- Former Chair, Virginia Alcoholic Beverage Control Board.
- Former Member, Board of Directors, Virginia Biotechnology Research Park.
- Former Member, Board of Directors, Greater Richmond Partnership.
- Former Chair, Greater Richmond Chamber of Commerce.
- Former President, Young Lawyers Conference, Virginia State Bar.
- Member, Board of Trustees, Washington & Lee University.
- Former Member, Board of Visitors, Virginia Polytechnic Institute and State University.
- Former Member, VCU and William & Mary Business Councils.
- Washington & Lee University School of Law, J.D.
Virginia Commonwealth University, B.A.



HONORABLE RUFUS G. KING, III (RET.)

Areas of Experience

Personal Injury, medical malpractice, product liability, family law, employment, contracts, construction, real estate, condemnation, and trusts & estates.

Credentials

- Chief Judge, Superior Court of the District of Columbia, 2000-2008.
- Chair, Civil Division of the Superior Court of the District of Columbia, 1997-1998.
- Deputy Presiding Judge, Civil Division of the Superior Court of the District of Columbia, 1994-1996.
- Associate Judge, Superior Court of the District of Columbia, 1984-2000.
- Former Chair, Superior Court Child Support Guidelines Committee.
- Former Chair, Committee on Technology and Automation.
- Founding Member, District of Columbia Criminal Justice Coordinating Council.
- Chair, the National Conference on Metropolitan Courts.
- Member, Board, National Center for State Courts.
- Member, Bar Association of the District of Columbia.
- Member, Washington Bar Association.
- Member, American Law Institute.
- Georgetown University Law Center, J.D.
Princeton University, B.A.



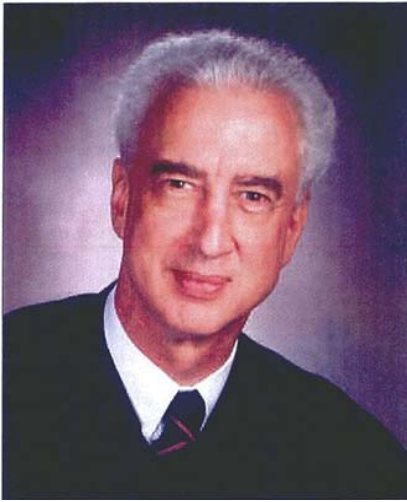
HONORABLE ELIZABETH B. LACY (RET.)

Areas of Experience

Regulatory and administrative law, personal injury, medical malpractice, product liability, contracts, general commercial, antitrust, employment, trusts and estates, consumer, construction, real estate, professional liability, condemnation, and environmental law.

Credentials

- Senior Justice, Supreme Court of Virginia, 2007-present.
- Justice, Supreme Court of Virginia, 1989-2007.
- Judge, Virginia State Corporation Commission, 1985-1989.
- Former Deputy Attorney General, Office of the Attorney General of Virginia.
- Former Assistant Chief, Office of the Attorney General of Texas.
- Former Staff Attorney, Texas Legislative Council.
- Professor, T.C. Williams School of Law, University of Richmond.
- Certified Mediator, Supreme Court of Virginia.
- Recipient, Distinguished Service Award, Virginia Trial Lawyers Association.
- Recipient, Gerald L. Baliles Distinguished Service Award, Virginia Bar Association.
- Recipient, Robert R. Merhige, Jr., Outstanding Achievement Award, John Marshall American Inn of Court, 2002.
- Chair, Board of Governors, Administrative Law Section, Virginia State Bar.
- Former Chair, Education of Lawyers Section, Virginia State Bar.
- Chair, Section of Legal Education and Admissions to the Bar responsible for law school accreditation, American Bar Association.
- Member, Advisory Board, Central and East European Law Initiative (CEELI), American Bar Association.
- University of Virginia School of Law, LL.M.
University of Texas Law School, J.D.
Saint Mary's College, B.A.



HONORABLE PAUL REDMOND MICHEL (RET.)

Areas of Experience

All forms of federal law disputes with a specialty in intellectual property matters as well as international trade, government contracts, federal employment, veteran affairs, class actions, and appellate and commercial matters generally.

Credentials

- Chief Judge, United States Court of Appeals, Federal Circuit, 2004-2010.
- Judge, United State Court of Appeals, Federal Circuit, 1988-2004.
- Appointed to the Judicial Conference of the United States, 2005.
- Former Legislative Assistant, Counsel, and Chief of Staff for Senator Arlen Specter.
- Former Acting Deputy Attorney General and Acting Attorney General.
- Former co-chair, Inter-agency Committee to Combat Terrorism.
- Former Associate Deputy Attorney General.
- Former Deputy Chief, Justice Department's Public Integrity Section.
- Former Assistant Counsel, United States Senate Select Committee on Intelligence.
- Former Assistant Watergate Special Prosecutor.
- Recognized for countless prizes and awards, including, Judicial Honoree Award, Bar Association of the District of Columbia, 2008; Honorary Doctor of Laws Degree, Catholic University, May 2010.
- Author of numerous articles, including, "The Court of Appeals for the Federal Circuit must Evolve to Meet the Challenges Ahead." *The American University Law Review*, August 1989; "A View from the Bench: Achieving Efficiency and Consistency," *Temple Environmental Law and Technology Journal*, Fall 2000.
- University of Virginia, J.D.
Williams College, B.A.



HONORABLE BARRY R. PORETZ (RET.)

Areas of Experience

Extensive federal court experience including but not limited to employment, intellectual property, complex business torts, contracts, and personal injury. State court experience including but not limited to medical malpractice and product liability.

Credentials

- US Magistrate Judge, Eastern District of Virginia, 1992-2008.
- Former Resident Partner, DC and Fairfax offices, Jordan, Coyne, Savits and Lopata.
- Former Partner, Lainof, Cohen, Weinstein and Poretz.
- Former Assistant Commonwealth's Attorney, Alexandria, VA.
- Certified Mediator, Supreme Court of Virginia.
- Former Master, George Mason Inn of Court.
- Former Executive Board Member, Alexandria Bar Association.
- Past Director, Foundation of the Alexandria Bar Association.
- Former Member, Fairfax Bar Association.
- Former Member, District of Columbia Bar Association.
- Federal Bar Association, Northern Virginia Chapter (Judicial Member).
- Federal Magistrate Judges Association.
- Former Member, Virginia Trial Lawyers Association.
- Former Faculty Member, Professionalism Course, Virginia State Bar.
- Former Member, Board of Directors, Alexandria Hospital.
- Columbus School of Law, Catholic University, J.D.
University of Virginia, B.A.



HONORABLE WILLIAM C. PRYOR (RET.)

Areas of Experience

Personal injury, product liability, medical malpractice, employment, contracts, construction, real estate, governmental issues, professional liability, and defamation.

Credentials

- Has served as a Senior Judge, District of Columbia Court of Appeals.
- Former Chief Judge, District of Columbia Court of Appeals. Former Associate Judge, District of Columbia Court of Appeals.
- Former Associate Judge, District of Columbia Court of General Sessions (later, the Superior Court).
- Former Assistant United States Attorney for the District of Columbia.
- Former Corporate Counsel: Chesapeake & Potomac Telephone Co.; Ohio Bell Telephone Co.
- Former Attorney, Department of Justice Attorney General's Honor Program, Civil Division.
- Past or current Member of the Board of Directors: Christ Lutheran Church, Opportunities Industrialization Center; St. Albans School; Washington Athletic Club; American Cancer Society (D.C.).
- Inductee, Washington Bar Association Hall of Fame, 2010.
- Adjunct Professor, George Washington University Law School. Professor, District of Columbia School of Law.
- University of Virginia Law School, Master of Laws.
Georgetown University Law School.
Dartmouth College.



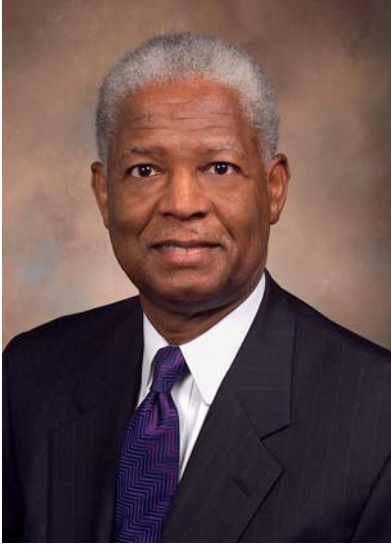
PAULINE A. SCHNEIDER, ESQUIRE

Areas of Experience

Broad involvement in financial and corporate transactions including general obligation bonds, health care financing, higher education and student loan financing, investment bank representation, and financing for state and local governments, airports, utilities, housing, hospitals, convention centers, sports arenas, and nonprofit activities.

Credentials

- Partner - Orrick, Herrington & Sutcliffe LLP, Washington, DC.
- Head of the Public Finance Group (DC) - Orrick, Herrington & Sutcliffe
- Former Partner, Hunton & Williams, Washington, DC.
- Office of Intergovernmental Affairs/Secretary to the Cabinet, White House.
- Former Director, Office of Intergovernmental Relations, District of Columbia Government.
- Listed in *Best Lawyers in America*, 2005-2009.
- Listed in *Who's Who in the United States*, 2005-2009.
- Listed in Washington, DC *SuperLawyers*.
- Recipient, Woman of Achievement Award, Anti-Defamation League.
- Recipient, Woman of Genius Award, Trinity College.
- Recipient, Margaret Brent Women of Achievement Award, ABA, 1999.
- Recipient, President's Award, National Association of Women Lawyers.
- Recipient, Woman of the Year, Women's Bar Association of the District of Columbia.
- Yale Law School, J.D.
Howard University, M.U.S.
Glassboro State College, B.A. (now Rowan University)



ROBERT P. WATKINS, ESQ.

Areas of Experience

Medical malpractice, personal injury, general commercial, and employment including class action race, gender, and age discrimination matters.

Credentials

- Associate, Partner and Of Counsel, Williams & Connolly, LLP, 1972-Current.
- Presidential Appointee and Former Member, DC Control Board.
- Fellow, American College of Trial Lawyers.
- Former Member, Board of Governors, DC Bar.
- Named one of DC's Top Lawyers by *Washingtonian* magazine, 2004.
- Former Assistant U.S. Attorney, District of Columbia.
- Former Trial Attorney, Federal Maritime Commission.
- Former Trial Attorney, Civil Rights Division, US Department of Justice.
- Former Law Clerk, Hon. William B. Bryant, US District Court for DC.
- Vice Chancellor, Episcopal Diocese of Washington.
- Former Member, Standing Committee on the Federal Judiciary.
- Cambridge University, Diploma in Criminology
Columbia University School of Law, J.D.
Harvard College, A.B.

BrownGreer PLC

BrownGreer PLC, a national leader in claims processing, will provide specially trained attorneys, technology professionals, and process experts who will act under the supervision and direction of The McCammon Group.

BrownGreer has extensive and exemplary experience in claims review and the design and administration of complicated claims processes, beginning with the roles of the BrownGreer founders in the Dalkon Shield Claimants Trust in 1990 (300,000 claimants). Their work continued with the “Fen-Phen” diet drug nationwide class action settlement and opt-out litigation settlement programs (600,000 claimants), the \$1 billion Sulzer Settlement Trust created in the Sulzer national class action settlement (27,000 claimants), and many other personal injury and financial resolution programs. BrownGreer also served as the Claims Administrator in the \$4.85 billion national Vioxx Resolution Program (60,000 claimants), steering that program to conclusion far ahead of the schedule normally required in settlements of that magnitude. Most recently, BrownGreer was chosen by Ken Feinberg, the Administrator of the \$20 billion fund created by BP to handle claims arising from the Deepwater Horizon oil spill in the Gulf of Mexico, to assist in the design and implementation of the process for review of those claims. More information is available at www.BrownGreer.com.

EXHIBIT 9

to the

**Memorandum of Points and Authorities in Support of
Plaintiffs' Motion for Preliminary Approval of Settlement,
Certification of a Rule 23(b)(1)(B) Class,
And for Other Purposes**

***In re Black Farmers Discrimination Litigation*
Case No. 08-mc-0511-PLF (D.D.C.)**

**Qualifications of
Michael Lewis
(Proposed Track B
Neutral)**

Biographical Statement for

Michael K. Lewis

For more than 30 years, Mr. Lewis has mediated, facilitated, and served as special master and discovery referee in a significant number of government-related cases involving contract, energy, environmental, land, natural resources, transportation, class actions, civil rights, and public policy issues.

A nationally recognized neutral, Mr. Lewis trains and lectures on the use of dispute resolution before Fortune 500 companies, leading law firms, private organizations, bar associations, and government agencies and groups he has worked with are: U.S. Department of Justice, Department of Energy, Department of Health and Human Services, General Accounting Office, Federal Trade Commission, U.S. Marshals Service, Federal Deposit Insurance Corp., Federal Communications Commission, Environmental Protection Agency, Federal Reserve Board, U.S. Air Force, U.S. Army and the Interagency ADR Working Group.

From his decades of experience, Mr. Lewis is familiar and knowledgeable about the issues private and governmental parties face in disputes involving local, state, or federal governments. He served on a panel that resolves complaints against Members of Congress and others under the Congressional Accountability Act of 1995; is on the U.S. Institute for Environmental Conflict Resolution Roster and on a roster maintained to provide neutrals for environmental and public policy disputes primarily involving the U.S. EPA; and spent 3 years overseas as a Foreign Service Officer in Thailand.

Representative Mediations

- *Pigford v. Glickman*, a case in which a class of approximately 20,000 African-American farmers alleged that the U.S. Department of Agriculture had discriminated against them. Following the settlement, the parties asked Mr. Lewis to manage the Track B (arbitration) process for resolving individual farmers' claims. He has done so for the past twelve years
- *Sokaogon v. Babbitt*, a mediation regarding the treatment of a petition to take land into trust for Indian tribes
- Mediation in which federal and state agencies questioned whether a utility had fulfilled its responsibilities under the Clean Air Act
- Mediation involving a dispute between the elected school board and the federally appointed D.C. Financial Control Authority
- Mediation of a dispute involving conditions in a large, publically supported apartment complex and damages to municipal buildings alleged to have been caused by faulty architectural design and construction
- Mediation of a series of whistle-blower cases involving federal employees or contractors

- Mediation of the use of a fund for the benefit of prisoners in the Bedford Hills Correctional Institution in New York State
- Mediations for a variety of federal government agencies involving employment issues
- Mediations or co-mediations of numerous environmental cases involving Superfund sites including: the HOD landfill in Illinois; the Kramer Landfill and BROS sites in New Jersey; the McKin Site in Maine; and the Old Southington Landfill, Hamden Middle School, and Bryden and Morse Sites in Connecticut. Among the issues dealt with in those mediations were the allocation of responsibility for clean-up costs, recovery of past and future costs by governments and responsible parties, and remedy selection and site remediation

Special Master/Discovery Referee, Representative Matters

- Special Master in, *Inmates of the Rhode Island Training School v. Martinez*, a case involving the care and treatment of juvenile delinquents
- Monitor and Special Master for the District of Columbia Superior Court in *Jerry M. v. D.C.*, a case involving the care and treatment of juvenile delinquents
- Special Master for implementations of a consent decree involving the Washington State Penitentiary in Walla, Walla, Washington

Supplementary Matters

- Among agencies for which Mr. Lewis has provided training are: U.S. Department of Justice, Department of Health and Human Services, Federal Deposit and Insurance Corporation, U.S. Army Material Command, U.S. Air Force, New York State Department of Corrections, New York City Department of Corrections, National Institute of Corrections, Government Accountability Office, U.S. Department of Interior, U.S. EPA, and Federal Trade Commission

Honors, Memberships, and Professional Activities

- Outstanding Achievement for ADR Education/Training, American College of Civil Trial Mediators, 2001
- Member: JAMS Board of Directors, 2004- 2010; JAMS Employment Practice Group, 2004-Present
- Board of Directors: Frederick B. Abramson Memorial Foundation, 1998-2008; Westtown Friends School, 1995-2005; Consensus Building Institute, 1993-Present; Search for Common Ground, 1997-present
- Member, American Bar Association Section on Dispute Resolution
- Featured on a television show produced by the American Law Institute and the American Bar Association and on numerous instructional videotapes
- Adjunct faculty member of law schools of Georgetown (1983-2007), American University, George Washington University, University of New Mexico; Harvard Program of Instruction for Lawyers Mediation Workshop (1984-present); trainer for CPR Institute for Dispute Resolution

Background and Education

- JAMS, 2004-Present; ADR Associates, 1990-2003; Private mediation practice, 1983-1990
- Center for Community Justice (now Center for Dispute Settlement), Deputy Director, 1972-1983
- National Institute for Dispute Resolution, Deputy Director, 1983-1988
- U.S. Information Agency, Foreign Service Information Officer, 1967-1972
- J.D., Georgetown University Law Center, 1975
- B.A., Dartmouth College, 1967; Studied at U.S. Department of State's Foreign Service Institute

EXHIBIT 10

to the

**Memorandum of Points and Authorities in Support of
Plaintiffs' Motion for Preliminary Approval of Settlement,
Certification of a Rule 23(b)(1)(B) Class,
And for Other Purposes**

In re Black Farmers Discrimination Litigation
Case No. 08-mc-0511-PLF (D.D.C.)

**Proposed
Ombudsman Order of
Appointment**

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**In re BLACK FARMERS DISCRIMINATION
LITIGATION**

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) **Misc. No. 08-mc-0511 (PLF)**
)
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This document relates to:

ALL CASES

ORDER APPOINTING OMBUDSMAN

On March __, 2011, this Court issued an Order preliminarily approving a Settlement Agreement entered into by the Plaintiffs in certain of these consolidated cases and the Secretary of the United States Department of Agriculture (“USDA”) (collectively, the “Parties”) to fully and finally resolve, on a classwide basis, all claims under Public Law No. 110-234 and/or Public Law 110-246, §14012 (2008).

As part of the Settlement Agreement, the Parties agreed that the Court may appoint an independent Ombudsman to monitor the good faith implementation of the Settlement Agreement. The Ombudsman’s fees, costs and expenses (“Ombudsman Costs”) will be paid, upon Court approval, from the Settlement funds appropriated by Congress, separately from Implementation Costs under the Agreement. *See* Settlement Agreement, Section VI.A.

Under the Agreement, the Ombudsman is to (a) report directly to the Court, with periodic written reports (not less than every six months) to the Court, the Secretary of Agriculture, and Lead Class Counsel regarding the good faith implementation of the Agreement; (b) be available to Class Members and the public through a toll-free telephone number to address concerns

regarding the implementation of the Agreement; (c) attempt to address concerns or questions raised by Class Members with respect to the implementation of the Agreement; (d) have access to the records maintained by the Claims Administrator and the Neutrals involved in the claims process; and (e) make recommendations to the Court relating to the implementation of the Agreement. The Ombudsman does not have the power to alter, in any way, substantive claims decisions made by the Neutrals or the Claims Administrator, nor may he [she] direct the Secretary and/or the United States to take any actions pursuant to the Settlement Agreement. *See* Section VI.B.

The Ombudsman shall not be removed except for good cause, and shall serve for as long as this Court has continuing jurisdiction to enforce the Settlement Agreement.

Taking into consideration these duties and the requirements of the Settlement Agreement, the Court has determined that _____ is the person best qualified to perform the role of Ombudsman in this case. This decision is based on [experience]. Accordingly, it is hereby

ORDERED, pursuant to Section VI of the Settlement Agreement and this Court's exercise under Section XVII of the Settlement Agreement of its continuing jurisdiction over the Settlement, and the inherent equitable power of the Court,¹ that _____ is appointed to serve as Ombudsman under the Settlement Agreement, effective _____, with all the responsibilities and obligations required under the letter and spirit of the Settlement Agreement.

¹ *See Ruiz v. Estelle*, 679 F.2d 1115, 1161 (5th Cir. 1982), *amended in part, reh'g denied in part on other ground*, 688 F.2d 266 (5th Cir. 1982); *see also Reed v. Cleveland Bd. of Educ.*, 607 F.2d 737, 746 (6th Cir. 1979); *Schwimmer v. United States*, 232 F.2d 855, 865 (8th Cir. 1956) (citing *In re Paterson*, 253 U.S. 300, 311 (1920)).

The Court understands that _____ intends to commence operations on or about _____, 2011. Once the Ombudsman has commenced operations, notice of the Ombudsman's availability to address concerns raised with respect to the implementation of the Agreement, and the toll-free number through which the Ombudsman may be reached, shall be posted on the *www.blackfarmercase.com* website. Additionally, Class Counsel and the Claims Administrator should refer calls to the Ombudsman, as appropriate.

The Court understands that the Ombudsman may hire additional staff to assist in the performance of his [her] duties, and that the Ombudsman and staff will need to be reasonably compensated for their time and reasonable expenses. Pursuant to Section VI.A of the Settlement Agreement, all Ombudsman's Costs shall be paid, upon Court approval, from the Settlement funds, separately from Implementation Costs, and the Court will remain available to assure that adequate compensation is provided with a minimum of delay and administrative difficulties. The Ombudsman will provide Lead Class Counsel, the Secretary of the USDA and the Court with quarterly written statements reporting his [her] fees and expenses.

SO ORDERED.

PAUL L. FRIEDMAN
United States District Judge

DATE: _____, 2011

EXHIBIT 11

to the

**Memorandum of Points and Authorities in Support of
Plaintiffs' Motion for Preliminary Approval of Settlement,
Certification of a Rule 23(b)(1)(B) Class,
And for Other Purposes**

***In re Black Farmers Discrimination Litigation*
Case No. 08-mc-0511-PLF (D.D.C.)**

**Proposed
Ombudsman Order of
Reference**

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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In re BLACK FARMERS DISCRIMINATION
LITIGATION
)
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Misc. No. 08-mc-0511 (PLF)

This document relates to:
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ALL CASES

ORDER OF REFERENCE

The Settlement Agreement preliminarily approved by this Court on _____, 2011 provides for the appointment of an Ombudsman to carry out certain enumerated duties. Those duties are listed in Section VI.B of the Settlement Agreement, with respect to which the Ombudsman shall report directly to the Court. The Settlement Agreement, as negotiated by the Parties and [preliminarily] approved by this Court, limits and clearly defines the role of the Ombudsman, as set forth in Section VI.B. On _____, 2011, this Court issued an Order appointing _____ as the independent Ombudsman in this case to assist the Court in overseeing implementation of the Settlement Agreement.

In accordance with the terms of the Settlement Agreement and this Court's exercise of its continuing jurisdiction under Section XVII to oversee and enforce the Settlement Agreement, this Court's Order of _____, 2011 preliminarily approving the Settlement Agreement, the Court's Order of _____, 2011 appointing _____ as the Ombudsman, and pursuant to the Court's inherent equitable power, it is hereby

ORDERED that the Ombudsman, as an agent and officer of the Court, shall have the responsibilities, powers, and protections set forth in the Settlement Agreement and in this Order of Reference; and it is

FURTHER ORDERED that the Ombudsman shall be available to Class Members and the public through a toll-free telephone number in order to address concerns about implementation of the Settlement Agreement; and it is

FURTHER ORDERED that the Ombudsman shall not have the power to alter in any way the substantive claims determinations made by the Neutrals or the Claims Administrator, nor shall the Ombudsman have the power to direct either of the Parties to take any action pursuant to the Settlement Agreement ; and it is

FURTHER ORDERED that, subject to the Section VI.C Limitations of the Settlement Agreement, the Ombudsman shall have the full cooperation of the Parties and their counsel, the Claims Administrator, and the Neutrals in carrying out his [her] duties under the Settlement Agreement. Further, the Claims Administrator and Neutrals shall promptly provide any and all information regarding the claims process, including access to records maintained by their offices, that may be requested by the Ombudsman for purposes of addressing concerns raised by Class Members and making recommendations to the Court regarding implementation of the Settlement Agreement; and it is

FURTHER ORDERED that the Ombudsman shall report directly to the Court and shall not be removed except for good cause, and shall serve for so long as this Court has continuing jurisdiction to enforce the Settlement Agreement; and it is

FURTHER ORDERED that:

1. The Ombudsman shall establish and maintain a toll-free telephone number which shall be posted on the *www.blackfarmercase.com* website and otherwise made publicly available so that Class Members and potential Class Members may raise concerns or questions regarding implementation of the Settlement Agreement;
2. The Ombudsman shall attempt to address any concerns or questions raised by Class Members, and, subject to the Section VI.C Limitations of the Settlement Agreement, the Ombudsman shall have authority to make informal suggestions to the Parties in order to facilitate and aid implementation of the Settlement Agreement and shall make recommendations to the Court relating to the implementation of the Settlement Agreement;
3. Subject to the Section VI.C Limitations of the Settlement Agreement, the Ombudsman shall have the right to confer informally and on an *ex parte* basis with the Parties' counsel with respect to matters affecting the discharge of the Ombudsman's duties and the implementation of the Settlement Agreement;
4. The Ombudsman shall make periodic written reports (not less than every six months) to the Court, the Secretary of Agriculture, and Lead Class Counsel regarding the implementation of the Settlement Agreement;
5. As an agent of the Court, the Ombudsman shall enjoy the same protections from being compelled to give testimony and from liability for damages as those enjoyed by other federal judicial agents performing similar functions;
6. Subject to Court approval, the Ombudsman shall have the authority to employ additional staff;

7. The Ombudsman's reasonable fees, costs and expenses shall be paid by the Secretary upon Court approval from funds appropriated for the Settlement. Within 20 days of the entry of such an order approving the Ombudsman's fees, costs, and expenses, the Secretary of the USDA shall provide the U.S. Department of the Treasury with all necessary forms to direct a payment to the Designated Account established under the Settlement Agreement for such approved fees, costs, and expenses.
8. The Ombudsman shall provide Lead Class Counsel, the Secretary of USDA and the Court with quarterly written statements reporting his [her] fees and expenses.

SO ORDERED.

PAUL L. FRIEDMAN
United States District Judge

DATE: _____, 2011

EXHIBIT 12

to the

**Memorandum of Points and Authorities in Support of
Plaintiffs' Motion for Preliminary Approval of Settlement,
Certification of a Rule 23(b)(1)(B) Class,
And for Other Purposes**

***In re Black Farmers Discrimination Litigation*
Case No. 08-mc-0511-PLF (D.D.C.)**

**Declaration of
Andrew H. Marks**

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**In re BLACK FARMERS DISCRIMINATION
LITIGATION**

Misc. No. 08-mc-0511 (PLF)

This document relates to:

ALL CASES

DECLARATION OF ANDREW H. MARKS

I, Andrew H. Marks, hereby declare as follows:

1. I am one of the counsel representing the more than 29,000 Plaintiffs in the following actions asserting claims on behalf of black farmers under Section 14012 of the 2008 Farm Bill:

- a. *National Black Farmers Association v. Schafer*, C.A. No. 08-00940;
- b. *McKinney v. Schafer*, C.A. No. 08-1062;
- c. *Hampton v. Schafer*, C.A. No. 08-1381; and
- d. *Anderson, v. Vilsack*, C.A. No. 09-1507.

2. The Settlement Agreement before the Court (Ex. 2) is the result of nearly two years of arms-length negotiations between counsel representing more than 40,000 of the Plaintiffs who have joined in the cases consolidated in this Consolidated Action and counsel for the Defendant (collectively, the "Parties"). These negotiations commenced in or about the first quarter of 2009 and concluded in March 2011. I personally participated in all of these negotiations.

3. Representing the Plaintiffs in these negotiations were more than 20 law firms with significant collective class action and complex litigation experience, including in *Pigford v. Glickman*, Case No. 97-cv-1978 (D.D.C.), as well as strong connections to the black farmer community.

4. Representing the Defendant in these negotiations were highly experienced attorneys from both the U.S. Department of Justice and U.S. Department of Agriculture who also had significant class action and complex litigation experience, including in *Pigford v. Glickman*.

5. Since the first quarter of 2009, the Parties have exchanged more than 20 Settlement Agreement drafts, and engaged in numerous discussions via e-mail and other written means regarding the terms of the Settlement Agreement.

6. The Parties have also engaged in numerous face-to-face meetings, and many additional conference calls, to discuss and negotiate the terms of the Settlement Agreement.

* * * * *

I declare that the foregoing declaration is true and correct to the best of my personal knowledge, information, and belief.

March 30, 2011
Date


Andrew H. Marks

EXHIBIT 13

to the

**Memorandum of Points and Authorities in Support of
Plaintiffs' Motion for Preliminary Approval of Settlement,
Certification of a Rule 23(b)(1)(B) Class,
And for Other Purposes**

***In re Black Farmers Discrimination Litigation*
Case No. 08-mc-0511-PLF (D.D.C.)**

Qualifications of Proposed Class Counsel

Class Counsel Qualifications
In re Black Farmers Discrimination Litig.
Case No. 08-mc-0511 (D.D.C.)

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Class Counsel Qualifications
In re Black Farmers Discrimination Litig.
Case No. 08-mc-0511 (D.D.C.)

Chestnut, Sanders, Sanders, Pettaway & Campbell, LLC

Henry Sanders

Henry Sanders is the Managing Partner of Chestnut, Sanders, Sanders, Pettaway & Campbell, LLC, at one time the largest Black law firm in Alabama and one of the largest black law firms in the country. His law practice has been one of service by helping poor and Black people save their lands, protecting the Constitutional rights of all citizens, incorporating new towns, and building strong, sensitive governmental institutions. He was deeply involved in the original *Pigford* class action case and other class action cases.

As a community leader, Mr. Sanders has helped found or build many organizations such as the Alabama New South Coalition, a powerful statewide political organization for which he currently serves as President Emeritus, and the 21st Century Youth Leadership Movement, which has chapters across America and in Africa. Mr. Sanders is also a member of the Campaign for a New South, the National Conference of Black Lawyers, the Alabama Lawyers Association, the National Bar Association, the American Bar Association, the Black Belt Human Resources Center, the National Voting Rights Museum and Institute, C.A.R.E. (Coalition of Alabamians Reforming Education), and the Selma Collaborative.

In 1983, Mr. Sanders was elected to the Alabama State Senate and has championed issues pertaining to education, children, health, women's issues, and removing sales taxes from food purchases. Mr. Sanders was the first African American State Senator from the Alabama Black Belt. He is currently serving his eighth term in the Alabama State Senate, where he serves on the following committees: Banking and Insurance, Education, Energy and Natural Resources, Finance and Taxation, and Local Legislation. In addition to numerous other awards, he was selected as Outstanding Legislator by the Alabama Legislative Black Caucus, voted a finalist in the Legislator of the Year Award by his fellow senators, and honored with a 1999 Nation Builder Award from the National Caucus of Black State Legislators.

Mr. Sanders is a graduate of Talladega College (B.A.) and Harvard University School of Law (J.D.). He attended Harvard Law School on a Felix Frankfurter Scholarship "for poor young men who show great promise," and served as President of Harvard Black Law Students Association. He is a member of the Alabama State Bar, as well as the Northern, Southern, and Middle Districts of Alabama, and U.S. Court of Appeals, Eleventh Circuit. He is also licensed to practice in the United States Supreme Court.

Faya Rose Toure

Faya Rose Toure (a.k.a. Rose M. Sanders) is a Harvard-educated Civil Rights activist and litigation attorney who has worked on some of the highest-profile civil rights cases to come before the courts, including the original *Pigford* class action case.

Mrs. Sanders received her undergraduate degree from Johnson C. Smith University (*summa cum laude*) and her law degree from Harvard. While at Harvard, she was awarded the Herbert Smith Fellowship. That led to an assignment the following year at the National Welfare Rights Organization and the Columbia Center on Social Welfare Policy and Law. In 1971, she worked briefly for the Legal Services Corporation. In addition, Mrs. Sanders is founder of the National Voting Rights Museum in Selma, Alabama, and a founding partner in the law firm of Chestnut, Sanders, Sanders, Pettaway & Campbell, LLC.

In 1973, Mrs. Sanders became the first African-American female judge in Alabama, serving as municipal judge until 1977. In 1982, Mrs. Sanders was hired by the Emergency Land Fund for the Department of the Agriculture to conduct a study of black land tenure and document land loss by African Americans.

Mrs. Sanders has also founded or co-founded a number of organizations aimed at community betterment, including the following:

- The Black Belt Arts and Cultural Center, an arts-based community organizing group;
- The National Voting Rights Museum in 1993 to tell the story of the Voting Rights Movement;
- The Bridge Crossing Jubilee, to commemorate the Selma-to-Montgomery Civil Rights march across the Edmund Pettus Bridge;
- Mothers of Many (MOMS), a group Mrs. Sanders founded for low-income women, which has opened three businesses under Mrs. Sanders' direction;
- The Africans in America Renaissance Project, which provides land for purchase and development by African Americans in South Africa;
- MAAT Leadership High, an all-male school;
- The Coalition of Alabamians Reforming Education (C.A.R.E.), which in the 1990s spearheaded a movement against the practice of "tracking" in Selma public schools;
- The Replacing Inequities in School with Excellence Network (R.I.S.E.), whose mission is to fight the practice of tracking and work for better education nationwide; and
- The 21st Century Youth Leadership Movement, a group that educates young people about the political process and encourages their involvement through chapters around the United States and in Mali and Senegal, West Africa.

Overall, Ms. Sanders has been involved in learning and cultural centers, political and legal organizations, and community initiatives that have benefited Alabamians for three decades.

Crowell & Moring LLP

Andrew H. Marks

Andrew H. Marks is a partner at Crowell & Moring, in both the firm's Litigation Group and Insurance/Reinsurance Group. Following graduation from Michigan Law School, Mr. Marks clerked on the U.S. District Court for the District of Columbia for the Honorable Charles R. Richey. Between 1979 and 1981, he served as Executive Assistant to Ambassador Sol M. Linowitz, the President's Personal Representative to the Middle East Peace Negotiations.

Mr. Marks has a broad-based complex litigation, class action, and arbitration practice. Among the wide range of matters he has handled in recent years are civil rights, defamation, contract disputes, business fraud, fiduciary duty, and insurance coverage cases. Mr. Marks regularly handles matters at both the trial and appellate levels in federal as well as state courts throughout the country. In addition, he has extensive experience, both as a neutral and as counsel, in arbitration and mediation proceedings. In addition, Mr. Marks was selected by his peers to be included in *The Best Lawyers in America 2011* as a "Best Lawyer" in the practice areas of commercial litigation, First Amendment law, and alternative dispute resolution.

Mr. Marks is a past president of the District of Columbia Bar, the nation's second largest state bar association. He is currently a member of the District of Columbia Access to Justice Commission and is on the board of the D.C. Circuit Historical Society and the D.C. School of Law Foundation. He is a member of the District of Columbia, Maryland, and Florida bars.

In 2005, Mr. Marks received the Judge Learned Hand Award from the American Jewish Committee in recognition of his "dedication to the highest principles of the legal profession and his outstanding contributions to the enrichment of our community." He was also awarded the 2005 Servant of Justice Award by the Legal Aid Society of the District of Columbia.

Mr. Marks is a 1973 *cum laude* graduate of Harvard College and a 1976 *magna cum laude* graduate of the University of Michigan Law School.

Laurel Pyke Malson

Laurel Pyke Malson is a partner in Crowell & Moring's Litigation Group, specializing in international and governmental litigation, mediation and arbitration, and complex commercial, class action, and administrative litigation. She has litigated numerous class-actions, including cases involving consumer fraud claims, the Individuals

with Disabilities in Education Act, cases alleging scientific misconduct, and other business and individual torts, including civil rights and constitutional violations. Ms. Malson also routinely counsels foreign and domestic clients regarding litigation risk management in the U.S. federal and state courts, and has litigated extensively under the Foreign Sovereign Immunities Act, Alien Tort Statute, Federal Tort Claims Act, and other "public law" provisions where foreign and U.S. government and related entities are involved. She also has counseled and litigated on behalf of a variety of public and private commercial entities, including public school systems and universities, academic medical centers and other health care providers and professional and trade associations.

Ms. Malson's recent representations include defending the District of Columbia Public Schools in a major class action under the Individuals with Disabilities in Education Act, and defending the American Psychiatric Association in the Ritalin and ECT class action litigations in multiple state and federal jurisdictions. She also is a key member of the team that secured a \$6 billion judgment on behalf of the estates and family members of seven U.S. nationals that perished, and the U.S. owner of the aircraft that was destroyed, in the 1989 bombing of UTA Flight 772 over the Sahara Desert. (*Pugh v. Libya*, Case No. 02-2026 (D.D.C.)).

Ms. Malson is a Mediator for the U.S. District Court for the District of Columbia, and she chaired the Committee on Grievances for the U.S. District Court for the District of Columbia from 2001 to 2004. She currently serves on the National Panel of Distinguished Neutrals for the International Institute for Conflict Prevention and Resolution ("CPR"), as well as CPR's HealthCare and Life Sciences Panel.

Before entering private practice in 1985, Ms. Malson served in the Office of Legal Counsel of the U.S. Department of Justice for four years, where she was responsible for a broad range of constitutional and federal statutory matters. She served as a member of the D.C. Circuit Advisory Committee on Procedures from 1986 to 1991. Ms. Malson clerked for the Honorable Damon J. Keith on the United States Court of Appeals for the Sixth Circuit (1979-1980) and the Honorable Harry T. Edwards on the United States Court of Appeals for the DC Circuit (1980-1981).

Ms. Malson is a 1976 graduate from Wesleyan University (B.A.) and a 1979 graduate from Harvard Law School (J.D.).

Michael W. Lieberman

Michael W. Lieberman is an associate in Crowell & Moring's Litigation and White Collar & Regulatory Enforcement Groups. He represents clients on a broad range of civil and criminal matters, including civil rights, contracts, torts, antitrust, and other complex commercial and class action litigation.

Prior to joining Crowell & Moring, from 2001-2007, he worked as Military Legislative Assistant to Congressman John M. Spratt, Jr., a senior member of the House

Armed Services Committee, and worked as a law clerk in the Federal Major Crimes Division of United States Attorney's Office for the District of Columbia.

Mr. Lieberman graduated from Duke University in 2001 (B.A.), and graduated *magna cum laude* from Georgetown University in 2008 (J.D.). He is a member of the Virginia Bar, the D.C. Bar, and is a member of the Virginia Trial Lawyers Association.

Morgan & Morgan, P.A.

Gregorio Francis

Mr. Francis practices in the Orlando, Florida and Jackson, Mississippi offices of Morgan & Morgan. He is an equity shareholder and serves on the firm's executive management committee. Mr. Francis began his legal career with a defense firm specializing in medical malpractice, nursing home, and municipal defense. He joined Morgan & Morgan in 2001, focusing his practice on medical negligence, police misconduct, wrongful death, and catastrophic personal injuries. Because of Mr. Francis' extensive trial experience, famed trial attorney Johnnie Cochran tapped him to open and serve as the co-managing partner of the "Cochran Firm" in Miami from 2004 to 2006. Mr. Francis currently serves as the managing partner for Morgan & Morgan's Mississippi office.

Mr. Francis earned a Bachelor of Arts in Criminology from the University of Florida in 1991. He then earned a Juris Doctorate from the University of Florida School of Law as a Virgil Hawkins Fellow. He also received writing and oral honors in Appellate Advocacy and was on the Dean's List. While pursuing his Juris Doctorate, Mr. Francis was inducted into the prestigious Florida Blue Key Leadership Honorary. Also while in Law school, he was appointed and served as a Justice on the University of Florida Board of Masters (the highest Appellate Court for student disciplinary matters) rising to the level of senior presiding justice in 1994. Additionally, he was a member of the Fredrick Douglas Moot Court Team and Publishing Editor for the Umoja Law Journal.

Mr. Francis is very active at the state and local level of the National Bar Association. He served as president of the Paul C. Perkins Bar Association from 2001 through 2003 and on the Executive Board of the Florida Chapter of the NBA. He is currently a member of the Judicial Nominating Commission for the Ninth Circuit Court of Florida, a committee responsible for interviewing and making recommendations to Florida's Governor regarding judicial appointments in the Ninth Circuit. Mr. Francis is also a member of the Florida Supreme Court's Committee on Standard Jury Instructions.

In the community, Mr. Francis volunteers his time to a number of local non-profit associations in Central Florida. Namely, he is a board member of the Nehemiah Educational and Economic Development Board, 100 Blackmen of America-Orlando Chapter, Chairman of the Lake Apopka Investigatory Commission, St Mark AME Church Board of Trustees, and the Nap Ford Charter School Board of Directors. Mr.

Francis serves as General Counsel for the Connectional Lay Ministry of the African Methodist Episcopal Church, where he provides legal advice and counsel to their three million non-ministerial members. Most recently, Mr. Francis was honored to be named an Honorary Tuskegee Airman as a result of his commitment to community and professional accomplishments.

Alphonso Michael Espy

Alphonso Michael Espy was the 25th Secretary of the United States Department of Agriculture, having served in the Administration of President Bill Clinton. He has also served as a Member of the United States House of Representatives from the State of Mississippi, having the distinction of being the first African-American elected to that body from the State of Mississippi since the Reconstruction-era. During his entire six year term in the U.S. Congress, Mike Espy served on the House Budget and Agriculture Committees, assigned to subcommittees that provided oversight to the U.S. Department of Agriculture and other agencies that create federal policy for national agricultural commodities and farm crops. He also served as Chairman of the House Select Committee on Hunger's Subcommittee on Domestic Hunger, and was national Vice-Chairman of the Democratic Leadership Council (DLC). As a member of the Congressional Black Caucus (CBC) Mr. Espy convened numerous hearings focusing on the treatment of African American farmers and on development and wealth creation within impoverished rural communities.

Mr. Espy has also served as Assistant Attorney General for the State of Mississippi, Director of the Attorney General's Office of Consumer Protection, and as a former Mississippi Assistant Secretary of State in charge of the Office of Public Lands. He has worked in the litigation divisions of defense firms, and as a regional Manager of Central Mississippi Legal Services. He is a board member of the Farm Foundation, a national agricultural "think tank," and a member of the Chicago Council on Global Affairs' panel on the Future of U.S. Agriculture and Food Policy.

Currently, Mike Espy works as an attorney shareholder in Morgan & Morgan PA, and as a principal of Mike Espy PLLC, and AE Agritrade, Inc., an agricultural consulting firm specializing in rural development, food and nutrition, and international agricultural development issues. He has served as principal advisor to foreign governments on matters of agricultural development, finance, and multilateral food aid. His law practice concentrates on general plaintiff's law, mass tort, bond and governmental finance, and international relations. He was appointed as a member of the Plaintiff's Steering Committee in *In Re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, MDL 2179.

Mr. Espy received his undergraduate degree from Howard University in 1975 and his law degree from Santa Clara University in 1978.

Scott Wm. Weinstein

Scott Wm. Weinstein practices in Morgan & Morgan's Fort Myers, Florida office. Mr. Weinstein serves as the Managing Partner of the firm's National Consumer Class Action and Mass Tort Department, handling mass tort litigation, consumer class action litigation and complex commercial litigation nationwide. Mr. Weinstein has broad experience and is nationally known in the areas of consumer protection, pharmaceutical and medical device litigation, and cases involving food-borne illnesses. He has served in leadership positions in many consumer class actions in State and Federal Courts around the country as well as in Multi-District Litigation where he was appointed Co-Lead and Liaison Counsel in the case *In re: Denture Cream Products Liability Litigation*, MDL No. 2051 (Southern District of Florida) and to Plaintiffs' Steering Committees in several cases, including *In re: Heparin Products Liability Litigation*, MDL No. 1953 (Northern District of Ohio); *In re: Digitek Products Liability Litigation*, MDL No 1968 (Southern District of West Virginia); *In re: Total Body Formula Products Liability Litigation*, MDL No. 1985 (Northern District of Alabama); *In re: Bayer Corp. Combination Aspirin Products Marketing and Sales Practices Litigation*, MDL No. 2023 (Eastern District of New York); and *In re: Chinese-Manufactured Drywall Products Liability Litigation*, MDL No. 2047 (Eastern District of Louisiana).

Mr. Weinstein currently serves as a member of the Florida Bar Board of Governors. He is Past President of the Lee County (Florida) Bar Association, Past Chair of The Florida Bar Grievance Committee "A" Twentieth Judicial Circuit, a member of the Twentieth Judicial Circuit Peer Review Committee, and Past President of the Naples/Fort Myers Chapter of the American Board of Trial Advocates ("ABOTA"). He is "AV" rated by Martindale-Hubbell and in 2009 and 2010 was selected as a member of the "Florida Legal Elite."

Mr. Weinstein was educated at the University of Florida, earning a B.S. degree in 1982 and a Juris Doctorate degree in 1985. While at the University of Florida, Mr. Weinstein was inducted into Florida Blue Key.

J. Andrew Meyer

J. Andrew Meyer is located in Morgan & Morgan's office in Tampa, Florida. Mr. Meyer focuses his practice on consumer class action litigation. Prior to his joining Morgan & Morgan in 2009, Mr. Meyer was a partner at James, Hoyer, Newcomer & Smiljanich, a firm specializing in nationwide consumer class action cases. Prior to his association with the James Hoyer firm, Mr. Meyer was a partner with the law firm of Carlton Fields. Mr. Meyer also served as a law clerk to the Honorable Chris W. Altenbernd of the Florida Second District Court of Appeal.

Mr. Meyer served as Editor of the Corporate Counsel Newsletter, American Bar Association Section of Litigation, Corporate Counsel Committee from 2002 to 2004. He is Past Chair of the Florida Bar Unlicensed Practice of Law Committee "A" Sixth Judicial Circuit. Mr. Meyer has published several legal articles including co-authoring

Petitions for Extraordinary Relief, Chapter 17, *A Defense Lawyer's Guide to Appellate Practice* (DRI) (2004); *Extraordinary Writs*, *Florida Civil Practice Before Trial*, Chapter 25, published by the Florida Bar (7th Ed. 2004); and *When It's Your Last Chance: Tips on Obtaining Discretionary Review*, Vol. 27 No. 4, *Litigation*, 11 (Summer 2001).

Mr. Meyer has prosecuted a number of putative nationwide class action cases on behalf of minorities, including cases alleging racial discrimination in the pricing of insurance and in the provision of mortgage loans in violation of the Fair Housing Act, as well as cases alleging discrimination in the employment context in violation of Title VII. Mr. Meyer been appointed by the court as counsel for plaintiffs in several nationwide consumer class action cases, including *DeHoyos v. Allstate Insurance Company*, Civil Action No. 5:01-1010 (Western District of Texas), *Healey v. Allianz Life Insurance Company*, Civil Action No. 2:05-8908 (Central District of California), and *Hill v. Countrywide*, Case No. A-0178441 (Texas 58th District Court, Jefferson County). Most recently, he has been appointed to the Plaintiffs' Steering Committee in the case of *In Re: Apple iPhone 3G and 3GS "MMS" Marketing and Sales Practices Litigation*, MDL No. 2116 (Eastern District of Louisiana).

Mr. Meyer was educated at the University of Florida, graduating in 1991 with a degree in Economics awarded with High Honors, and with a Juris Doctorate degree in 1995. While at the University of Florida, Mr. Meyer was inducted into Florida Blue Key and Phi Beta Kappa.

Law Offices of James Scott Farrin

James Scott Farrin

Mr. Farrin founded the Law Offices of James Scott Farrin, and serves as its President and CEO.

Mr. Farrin is a member of the American Association for Justice's Leaders Forum, the President's Club of the North Carolina Advocates for Justice, and The North Carolina Bar Association. Mr. Farrin also contributes to and serves on the Lawyer's Image and Marketing Committee for the North Carolina Advocates for Justice, and is a member of the Million Dollar Advocates Forum.

Mr. Farrin received his J.D., with honors, from Duke University School of Law. He received his B.A., Phi Beta Kappa, in Philosophy from Trinity College in Hartford, Connecticut.

Eric P. Haase

Eric P. Haase is a shareholder at the Law Offices of James Scott Farrin. His practice areas include a variety of serious injury claims.

Mr. Haase is admitted to practice before the Supreme Court of the United States. In addition, Mr. Haase is a member of the American Association for Justice, the North Carolina Advocates for Justice, the North Carolina Bar Association, the 14th Judicial District Bar Association, the Durham Bar Association and the State Bar of Georgia. He is the incoming Secretary for the North Carolina Advocates for Justice Products Liability Section.

Mr. Haase received his J.D. from the University at Buffalo Law School (State University of New York). He received his B.S. in Business Administration from the University of North Carolina at Chapel Hill.

Pogust, Braslow & Millrood, LLC

Harris Pogust

Harris L. Pogust is a founding partner of Pogust Braslow & Millrood LLC.

For twenty years, Mr. Pogust has been litigating, bringing to trial, and settling claims on behalf of his injured clients, and has over a decade of experience in working as lead counsel in class action suits, state court mass tort programs, and federal, multi-district litigation programs. Currently, Mr. Pogust is serving as lead counsel in *In re Celexa and Lexapro Products Liability Litigation*, E.D. Mo., MDL No. 1736, and liaison counsel in *In re Paxil*, Philadelphia Court of Common Pleas, No. 1503.

Mr. Pogust is admitted to practice law in the Supreme Court of Pennsylvania (1988), the Supreme Court of New Jersey (1989), the United States District Court, Eastern District of Pennsylvania (1989), the United States District Court, District of New Jersey (1994), the United States District Court, Eastern District of New York (2005), the United States District Court, Eastern and Western Districts of Arkansas (2006), the United States District Court, District of Columbia (2007), the United States Court of Appeals, Third Circuit (2002), and the United States Court of Appeals, Fourth Circuit (1995).

Mr. Pogust is a member of the Pennsylvania Association of Justice and the American Association for Justice. He was selected by the New Jersey Law Journal as one of the "Top 40 lawyers Under the Age of 40." He has also been quoted in the Wall Street Journal and other national publications, and has testified before the United States Senate regarding Y2K and technology related legal issues. He is Chairman of American Association for Justice's Neurontin Litigation Group and SSRI Litigation Group and has served as a guest lecturer at numerous legal conferences across the country. He has also served as lead counsel in the several class actions, including *Courtney v. Medical Manager* (software defect), *Harman v. Rohm & Haas* (environmental injury from landfill waste), and *Kiser v. PalmOne, Inc.* (defective cell phones).

Mr. Pogust graduated from Rutgers University in 1985 (B.A.) and from Widener University School of Law in 1988 (J.D.).

Tobias (Tobi) L. Millrood

Tobi Millrood is a partner of Pogust, Braslow & Millrood. Prior to joining Pogust, Braslow & Millrood, Tobi managed the mass tort department at Schiffrin Barroway Topaz & Kessler, LLP.

Mr. Millrood has been actively involved in mass tort litigation involving Prempro (Hormone Therapy), Guidant Cardiac Devices, Medtronic Cardiac Devices, Vioxx, Fen-Phen, Gadolinium, Baycol, Meridia, Thimerosal, Ephedra and Zyprexa. Mr. Millrood has dedicated his career to holding corporate wrongdoers accountable to victims of negligence and reckless conduct, especially in the pharmaceutical and medical device litigation arena. Mr. Millrood speaks frequently at various seminars, on the topics of Mass Tort Litigation, Hormone Therapy, Cardiac Device Litigation, Meridia, the Ethics of Settling Mass Tort Cases and Electronic Discovery. To date, Mr. Millrood has helped his clients to receive millions of dollars in settlement of their product liability claims.

Earlier in his career, Mr. Millrood practiced at Anapol Schwartz. While at Anapol Schwartz, Mr. Millrood garnered several notable achievements, including serving as co-counsel in a \$22 million medical malpractice verdict in *Wallace v. Fraider* (Phila. CCP Mar. 2001), one of the highest in state history.

Mr. Millrood was appointed Plaintiffs' Liaison Counsel in *In Re Hormone Therapy Litigation*, Philadelphia Court of Common Pleas. He also served on the Plaintiffs' Steering Committees in *In re Prempro Products Liability Litigation*, MDL 1507 and *In re Guidant Corporation Implantable Defibrillators Products Liability Litigation*, MDL 1708. In addition, he served on the Executive Committee for the *Omnibus Autism Proceeding*, United States Court of Federal Claims.

Mr. Millrood is Chairman of American Association for Justice for both the Hormone Therapy Litigation Group and the Meridia Litigation Group. He was also recognized as a 2010 Pennsylvania Super Lawyer.

Mr. Millrood received his Bachelor of Arts from Tulane University in 1992 and his law degree from University of Tulsa College of Law in 1995.

Conlon, Frantz & Phelan, LLP

David J. Frantz

David Frantz is one of the founding partners of Conlon, Frantz and Phelan, LLP, which originated with a predecessor firm in 1985. His practice focuses on complex civil litigation and representation of farmers and ranchers. He is class counsel in *Pigford v. Vilsack*, C.A. No. 97-1978 PLF (D.D.C), a discrimination case against USDA that resulted in payment of compensation and debt relief of over \$1 billion to African American farmer claimants. He is also co-counsel for the Plaintiffs in *Keepseagle v. Vilsack*, C.A. No. 1:00-cv-03119-EGS (D.D.C), a class case brought on behalf of Native

American farmers and ranchers for discrimination by USDA in the administration of farm loan programs.

Mr. Frantz also has an active administrative law practice before USDA, representing farmers and ranchers in their disputes with the Department involving farm loan programs and non-credit benefit programs. He is a frequent speaker and panelist in programs sponsored by non-profit organizations that provide assistance to socially disadvantaged farmers and ranchers throughout the rural South.

Mr. Frantz is a graduate of Georgetown University (B.S., B.A. 1970) and Georgetown University Law Center (J.D. 1974). He is admitted to practice in Virginia and the District of Columbia.

Brian P. Phelan

Brian Phelan received his undergraduate and J.D. degrees from Georgetown University. He specializes in real estate financing for lenders and borrowers and practices in the land title area, conducting commercial and residential settlements, and acts as an agent for the writing of title insurance. Mr. Phelan also engages in estate planning and probate of decedents' estates. In addition, he has experience in civil litigation in state and federal courts, with an emphasis on commercial and contract litigation.

Stinson Morrison Hecker LLP

Phillip Fraas

Phillip Fraas focuses his practice on agriculture law and lobbying on behalf of farmers, ranchers, food and agriculture businesses, and agriculture associations. For nearly 20 years, he has represented companies, individuals and trade associations on matters involving the USDA. For 13 years, Mr. Fraas served as counsel to the Senate and House of Representatives Agriculture Committees, including four years as Chief Counsel to the House Committee. During that time, he was responsible for supervising the drafting of legislation, policy development, and analysis for the Committee's Chairman, as well as working extensively in the drafting of legislation that governs USDA programs.

In addition to representing clients in court and before administrative law tribunals, Mr. Fraas' scope of practice includes analysis of regulations, drafting of legislation, and lobbying before Congress and executive branch agencies.

Mr. Fraas' representative experience includes the following: USDA administrative law cases, including successfully preventing sugar beet processors from losing sugar marketing allotments worth \$400 million; federal litigation, including serving as co-lead counsel for black farmers suing USDA in the *Pigford* class action, through which the USDA agreed to pay the farmers the largest civil rights damages

award ever made by the federal government; and legislation and regulations, including drafting legislative proposals and analyzing USDA regulations for a wide range of agricultural clients. In addition, Mr. Fraas organized and has managed The DEIP Coalition, an export trade business group that included all the major dairy exporting and milk powder manufacturing companies in the United States.

Mr. Fraas graduated from Rockhurst College in 1965 and from University of Missouri-Kansas City School of Law in 1969. Mr. Fraas is a Member of the Missouri Bar, the District of Columbia Bar Association, and the American Agricultural Law Association.

The Law Offices of Marc Boutwell, PLLC

Marc Boutwell

Marc began practicing law in April of 1992. Prior to that, he attended the University of Mississippi, in Oxford, Mississippi, where he received a Juris Doctor in December 1991, and the University of Southern Mississippi in Hattiesburg, Mississippi, where he received a Bachelor of Science in Business Administration in December 1988. Mr. Boutwell started his law practice working with the Barrett Law Firm in Lexington, Mississippi in January of 1992. He has tried numerous civil and criminal, jury and bench trials over the last 19 years, as well as numerous non-jury trials.

Mr. Boutwell's law practice, almost immediately, involved complex mass tort and class claims action litigation. From 1993 to 1995, he was part of a team that prosecuted mass tort and class action civil rights and discrimination lawsuits on behalf of African Americans against Woodmen of the World Life Insurance Company (*Lorene Nealy v. Woodmen of the World Life Insurance Company*, U.S. District Ct S.D. of Miss. 3:93CV536 (b)(n)). That case was settled on a state and national level.

In 1996, Mr. Boutwell was part of a team that received a \$217 million verdict against Rockwell International for pollution of the Mud River in Kentucky (*Houchens v. Rockwell International*, Logan Co Circuit Ct, No 93-cl-158). As part of this team, Mr. Boutwell traveled to Kentucky for months before trial taking depositions and coordinating testimony for the numerous plaintiffs in this case. This verdict was awarded after the six week long trial.

Mr. Boutwell has also litigated other class actions, including one on behalf of African American Game and Fish Officers against the State of Mississippi for civil rights violations and discrimination claims (*Felton, Carter, Lee and Brown v. MS Dept of Wildlife*, U.S. Dist Ct SD of Miss 5:99CV200(L)(N)).

In March of 1997, Mr. Boutwell started his own firm in Lexington, Mississippi. The firm has had as many as five attorneys and a number of support staff over the last 14 years. This firm has been lead counsel on numerous cases, including several mass tort cases and class action cases. Currently this law office is focused on consumer claims

against credit card companies and mortgage companies, both in mass tort and class actions.

Mr. Boutwell is currently a member of the Mississippi Bar Association, on the Mississippi Board of Bar Commissions (term begins July 2011) and on the Board of the Mississippi Prosecutors Association. He is authorized to practice law in all state and federal courts in Mississippi, as well as the Fifth Circuit Court of Appeals. He has been authorized by various federal and state courts to practice *Pro Hac Vice*, including the Commonwealth of Kentucky, the U.S. District Court of Tennessee, and the U.S. District Court of Massachusetts, to name a few.

Charles Edwards

Charles Edwards focuses his practice on general civil trial practice, emphasizing personal injury, consumer finance fraud, credit card fraud, mortgage fraud and other consumer legal issues. He represents clients in all levels of state and federal court and before federal, state and local administrative agencies, including class action litigation.

Prior to joining The Law Offices of Marc Boutwell, PLLC, Mr. Edwards served as a Law Clerk to Judge Gray Evans, Circuit Judge for District Four in Mississippi. He also served as Law Clerk to Judge Jon Barnwell, Chancery Judge for District Seven in Mississippi.

Mr. Edwards is a member of the Mississippi State Bar, the U.S. District Court for the Northern District of Mississippi, the U.S. District Court for the Southern District of Mississippi, and the U.S. Court of Appeals for the Fifth Circuit. He is also a member of the Mississippi Bar Association, the Mississippi Association for Justice, and the American Trial Lawyers Association.

Mr. Edwards received his undergraduate and graduate degrees from Millsaps College (B.B.A. and M.B.A.) and his law degree from the University of Mississippi (J.D.).

Law Offices of Calton & Calton

Jimmy S. Calton, Jr.

Jimmy S. Calton, Jr. is a partner at the Law Offices of Calton and Calton. His current practice areas include civil trial, personal injury, automobile accidents and injuries, family law, divorce, domestic relations, commercial real estate, residential real estate, social security disability, criminal defense, driving while intoxicated, drugs and narcotics, and juvenile law.

Mr. Calton, Jr., is a member of the State Bar of Alabama and the U.S. District Court for Middle District of Alabama.

Mr. Calton, Jr. received his undergraduate and law degrees from the University of Alabama (B.A. and J.D., respectively).

Jimmy S. Calton, Sr.

Jimmy S. Calton, Sr. is a partner at the Law Offices of Calton & Calton. Mr. Calton, Sr., is a member of the State Bar of Alabama. Mr. Calton, Sr. received his undergraduate degree from Birmingham-Southern College (B.A.) and his law degree from Vanderbilt University (J.D.).

Walter B. Calton, Esq.

Walter B. Calton is a current Municipal Judge for the Eufaula Municipal Court in Alabama and, serves as a Court-Appointed Special Master for large class action lawsuits. He is a former Assistant District Attorney, City Prosecutor, and Assistant Attorney General.

Mr. Calton practices in the areas of class actions, domestic relations, property law, fraud, and personal injury.

Mr. Calton received his undergraduate degree from Birmingham–Southern College and his law degree from Faulkner University, Jones School of Law. He was admitted to practice in the State Bar of Alabama in 1991.

Cross & Kearney, PLLC

Othello C. Cross

Othello Cross is a founding partner of Cross & Kearney, PLLC. He primarily practices in the areas of criminal law, personal injury litigation, probate, and real property. Mr. Cross served as counsel in the *Pigford* class action, the landmark case in which the USDA agreed to pay black farmers the largest civil rights damages award ever provided by the federal government – approximately \$1 billion.

Mr. Cross is a member of the Arkansas Bar Association, Arkansas Trial Lawyers Association, Jefferson County Arkansas Bar Association, W. Harold Flowers Law Society, American Bar Association, American Trial Lawyers Association, and National Bar Association. He also served on the Arkansas State Claims Commission, presiding over claims of all natures against the State of Arkansas and its agents and departments, who are immune from civil suit.

Mr. Cross is admitted to practice in all courts in the State of Arkansas, in the U.S. District Courts for the Eastern and Western Districts of Arkansas, and in the U.S. Court of Appeals for the Eighth Circuit.

Mr. Cross received his undergraduate degree from the University of Arkansas at Pine Bluff (B.S., Biology) and his law degree from the University of Arkansas, Fayetteville School of Law (J.D.). He was admitted to the Arkansas State Bar in 1979.

Jesse L. Kearney

Jesse Kearney is a partner with Cross & Kearney, PLLC. He was among the Court-recognized counsel in the *Pigford* class action case beginning in 1999, in the course of which he handled adjudication and arbitration and sought monitor review of Track A and Track B claims, prevailing on 70% of them. In addition, as part of this process, his firm obtained one of the largest Track B awards made in the *Pigford* arbitration process.

Except for periods of government service, Mr. Kearney has practiced Title VII law, general civil rights law, and maintained a general practice for the past 34 years. In addition, he acted as general counsel for State Labor and Local Service Departments and for the Arkansas State Police. He also represented these agencies in all State and Federal Courts in and for Arkansas, and in the U.S. Supreme Court. Further, he represented the State in all criminal appeals, to the Arkansas Court of Appeals, Arkansas Supreme Court, and U.S. Supreme Court.

Mr. Kearney served as Assistant Arkansas Attorney General from 1977 through 1979. From 1979 through 1981, he served as Special Assistant to Governor Bill Clinton, including as the Governor's liaison to the State Labor Department, State Local Government Services Department, Employment Security Department and Federal Government Programs. In 1981, he served as Arkansas State Claims Commissioner. This quasi judicial commission, composed of three commissioners, exercised limited subject matter jurisdiction with unlimited jurisdictional amounts, over claims of all nature against the State of Arkansas or its agents and departments, including injunctive and monetary relief, enforcement of property, contract, and civil rights against agents and officers of the state. From 1989 through 1991, he served as Circuit Judge for the 11th District, State of Arkansas, a State Constitutional Court with general jurisdiction over State and Federal Constitutional, criminal, civil, and equitable jurisdiction, in which he handled over 5,000 cases. From 1989 through 2000, he served as Magistrate in Probate and Chancery Court, 11th District West, State of Arkansas, excluding his time as Circuit Judge. From 1992 to 2000, he served as Special County Judge, Jefferson County, State of Arkansas, with presiding judicial functions to the County Judge, covering limited subject matter jurisdiction applying state law and county ordinances, where assigned by statute.

Mr. Kearney received his undergraduate and law degrees from the University of Arkansas in 1973 and 1976, respectively. He was admitted to the Arkansas State Bar in 1976. He is also admitted to practice in all courts in Arkansas, and in the U.S. District Court for the Eastern and Western Districts in Arkansas, the U.S. Circuit Court of Appeals for the Eighth Circuit, and the U.S. Supreme Court. In addition, he is a member of the American Bar Association, American Trial Lawyers Association, National Bar

Association, Arkansas Bar Association, Arkansas Trial Lawyers Association, Jefferson County Arkansas Bar Association, and the W. Harold Flowers Law Society.

Gleason & McHenry

Don O. Gleason, Jr.

Mr. Gleason lives in Tupelo, MS and is a founding partner in the law firm of Gleason & McHenry, PLLC. Since its inception in 2001, the law firm of Gleason & McHenry has focused on helping individuals in all aspects of civil and criminal litigation, both on the state and federal level. Mr. Gleason focuses his practice primarily on civil litigation on behalf of consumers both large and small. He has successfully represented hundreds of victims in mortgage fraud, and mortgage servicing fraud cases. Presently, Mr. Gleason represents numerous corporate victims in the Polyurethane Anti-Trust Litigation. Locally, Mr. Gleason represents individuals in a wide range of cases that includes personal injury, workers' compensation, and criminal defense.

Mr. Gleason received his B.A. from the University of Mississippi in 1993 and his Juris Doctorate in 1999, also from the University of Mississippi. He is a member of the Mississippi Bar Association, the American Association of Justice, the National Association of Consumer Advocates, and is a Board Member and member of the Leader's Forum of the Mississippi Association of Justice.

Michael B. McHenry

Michael B. McHenry is a founding partner in the firm of Gleason and McHenry, PLLC. Gleason and McHenry was founded in 2001 in Tupelo, MS. Since its inception Gleason & McHenry has focused on helping individuals in all aspects of civil and criminal litigation both on a state and federal level. Mr. McHenry has successfully represented hundreds of victims in mortgage fraud and mortgage servicing fraud cases. Aside from his mass tort practice, Mr. McHenry also handles claims for damages associated with violations of the Fair Credit Reporting Act, the Fair Debt Collection Practices Act, workers' compensation, personal injury, social security benefits, as well as helping individuals with estate planning issues.

Michael B. McHenry is licensed to practice law in Mississippi and Alabama and is a Certified Estate Planner. He is a 1999 graduate of the University of Mississippi School of Law. Prior to enrolling in law school, Mr. McHenry attended Mississippi State University where he graduated with a B.A. in Banking and Finance in 1996. Immediately following law school and prior to founding Gleason & McHenry, Mr. McHenry worked for one of the largest insurance defense firms in Mississippi, defending various insurance companies and corporations in both state and federal court.

Gowan Law Office, PLLC

Stephen L. Gowan

Stephen L. Gowan is a partner in Gowan Law Office, PLLC. Mr. Gowan is a graduate of Mississippi State University in 1986 with a B.S. in Business Administration, and of University of Mississippi School of Law in December of 1990. Mr. Gowan has been admitted to practice in State and Federal Courts in Mississippi since 1991.

In 1995, he became a partner in Moore and Jones in Hattiesburg, Mississippi where he handled commercial litigation for financial institutions. Since founding Gowan Law Office, PLLC in 1998, he has represented financial institutions, as well as individuals with lender-related claims, as well as personal injury and mass tort claims.

In addition, Mr. Gowan has extensive experience in the agricultural field, having operated cotton, grain, and timber farms since 1990. He is currently general counsel for AgSaver, LLC and Hampton Pugh Company in McGeehee, Arkansas.

Heninger Garrison Davis, LLC

William Lewis Garrison, Jr.

William Lewis Garrison, Jr. is one of the founding members of Heninger Garrison Davis, LLC. His practice focuses primarily on pharmaceutical product liability. Mr. Garrison also represents clients in a variety of matters involving complex civil litigation.

Mr. Garrison has significant experience with class actions and mass torts. He has served as Lead or Co-Counsel in numerous toxic tort, consumer protection, and product liability class action suits, including *In re Cheerios Marketing & Sales Practices Litigation*, MDL No. 2094; *In re Apple iPhone 3G Products Liability Litigation*, MDL No. 2045; *In re Bayer Corp. Combination Aspirin Products Marketing and Sales Practices Litigation*; *Cusick v. Southwest Airlines Co., Inc.*, Case No. 3-09-CV-137-F; *In re MasterCard International, Inc. Internet Gambling Litigation*, and *Visa International Service Association Internet Gambling Litigation*, MDL Nos. 1321 and 1322; *In re Welding Fume Products Liability Litigation*, MDL No. 1535; *In re Zyprexa Litigation*, MDL No. 1596; *In re Seroquel Litigation*, MDL No. 1769; *In re Vioxx Marketing, Sales Practices and Products Liability Litigation*, MDL No. 1657; *In re Diet Drug Litigation*, MDL No. 1203; *In re Kugel Mesh Hernia Patch Litigation*, MDL No. 1842; *In re Levaquin Products Liability Litigation*, MDL No. 1943; *In re Ortho Evra Litigation*, MDL No. 1742; *In re Guidant Corp. Litigation*, MDL No. 1708; and *In re Medtronic, Inc. Implantable Defibrillators Products Liability Litigation*, MDL No. 1726.

Mr. Garrison is a member of the Alabama State Bar, as well as the State Bar of Georgia. He is also a member of the American Bar Association, the U.S. Supreme Court Historical Society, the Alabama State Bar Association, the Association of Trial Lawyers of America, the Alabama Trial Lawyers' Association, and the Birmingham Bar

Association, where he has served on the grievance, public relations, and special assignments committees. Mr. Garrison is also a frequent speaker at continuing legal education seminars.

Mr. Garrison graduated from the University of Alabama in 1977 (B.S.) and from the Cumberland School of Law of Samford University in 1983 (J.D.). He is admitted to practice in the U.S. Supreme Court, the U.S. Court of Appeals for the Fourth and Eleventh Circuits, and the U.S. District Courts for the Northern, Middle and Southern Districts of Alabama, the Eastern District of Arkansas, and the Middle and the Northern District of Georgia.

William L. Bross

William L. Bross focuses his practice in the areas of pharmaceutical and medical device litigation, where he has been actively involved in settlements for thousands of persons injured by defective drugs and medical devices. Mr. Bross' practice also includes nursing home, personal injury, and real estate litigation. Additionally, he has experience in numerous MDL cases, including Medtronic Devices, Guidant Devices, Kugel Hernia Mesh, Diet Drugs, Levaquin, Vioxx, Neurontin, and the Ortho Evra Birth Control Patch.

Mr. Bross was admitted to the Alabama Bar in 1999. He is also a member of the U.S. District Court for the Northern, Middle and Southern Districts of Alabama. Mr. Bross is a member of the Birmingham Bar Association, Alabama Trial Lawyers Association, American Association for Justice and the American Health Lawyers Association. Prior to practicing law, Mr. Bross, also a registered nurse, served in a variety of settings in the healthcare industry in management at various levels.

Mr. Bross received his undergraduate degree in Psychology and Classics from the University of Alabama, Tuscaloosa in 1982. He also received a Bachelor of Science in Nursing in 1987 and his M.B.A. in 1990 from University of Alabama, Birmingham. Mr. Bross earned his law degree from Birmingham School of Law in 1999. In addition to his law degree, Mr. Bross holds Nursing and Real Estate licenses in Alabama.

Gayle L. Douglas

Gayle L. Douglas focuses her practice areas on consumer fraud, pharmaceutical liability and personal injury. She has experience in numerous mass tort and class action cases including Kugel Hernia Mesh, Apple iPhone 3g, and Bayer Corporation Combination Aspirin Products. Ms. Douglas has also been appointed to the Plaintiffs' Executive Committee in the Multi-District Litigation *In re Cheerios Marketing and Sales Practices*.

Ms. Douglas was admitted to the Alabama Bar in 2002 and the Florida Bar in 2003. She is a member of the U.S. District Court for the Northern, Middle and Southern Districts of Alabama, and the U.S. Court of Appeals for the Eleventh Circuit.

Ms. Douglas received her undergraduate degrees at Florida State University. She received her Juris Doctor from the University of Alabama School of Law, where she was a member of the John A. Campbell Moot Court Board and the Jessup International Moot Court Team.

In addition to regular pro bono work, Ms. Douglas currently serves as co-chair for the Teen Court of Jefferson County. She has also received an award for Distinguished Service from the Women's Section of the Birmingham Bar Association. Ms. Douglas was named an Alabama Rising Star for 2011 by Super Lawyers.

McEachin & Gee LLP

Donald McEachin

Senator Donald McEachin was first elected to the Virginia State Senate in 2007, where he continues to serve, after having been first elected to the Virginia House of Delegates in 1996.

After practicing with Browder, Russell, Morris and Butcher and Morris and Morris in Richmond, Mr. McEachin opened a law firm with the Gee brothers, called McEachin and Gee. In 2001, Senator McEachin went out on his own, founding the McEachin Law Firm on Broad Street in Richmond, before rejoining with his partner, Donald Gee, in 2006.

Senator McEachin is very active in the community, and is a lifetime member of Kappa Alpha Psi fraternity, the NAACP, the Virginia State Bar, and the Virginia Trial Lawyers Association.

Donald McEachin is a graduate of American University (B.S.) and of the University Of Virginia School Of Law (J.D.).

Patton Boggs, LLP

Anurag Varma

Anurag Varma joined Patton Boggs LLP as Of Counsel in September 2007, and serves in the firm's civil litigation and international public policy practices. Prior to joining Patton Boggs, from 1997 to 2007, Mr. Varma was a partner at Conlon, Frantz, Phelan & Varma, LLP, and an associate at its predecessor firm, Conlon, Frantz, Phelan and Pires, LLP.

Mr. Varma has served as counsel in *Keepseagle v. Vilsack*, the Native American farmers and ranchers' lawsuit against the USDA, from the inception of the case to the present. During this time, Mr. Varma has served on the litigation strategy team, drafted Court filings, taken depositions, prepared and responded to document discovery, and maintained contact with class representatives and other class members, tribal

governments and other tribal agricultural leaders, Native American and agricultural media, and interested Members of Congress.

From 1997-2007, Mr. Varma also worked with lead plaintiffs' counsel in the *Pigford* class action case against the USDA, which was settled by the parties in January 1999. In *Pigford*, Mr. Varma led Class Counsel's successful efforts in assisting over 20,000 class members, across 29 states, in completing the forms necessary to participate in the settlement.

On December 14, 2010, Mr. Varma testified before the United Nations Forum on Minority Issues, hosted by the U.N. High Commission on Human Rights, on the topic of "Achieving Justice for Minority Farmers through Litigation." Outside of civil litigation, Mr. Varma co-chairs Patton Boggs' India Practice. This work involves representing U.S. interests in connection with market entry and other public policy concerns in India, as well as Indian companies and the Government of India in resolving issues related to U.S. Congressional and regulatory activities. In that capacity, among other things, Mr. Varma served as lead public policy counsel for U.S. industry in the successful Congressional approval of the historic U.S.-India Civil Nuclear Agreement.

Mr. Varma received a J.D. from the University of Denver College of Law (1997), where he served as Articles Editor for the Denver Journal of International Law and Policy, and an L.L.M. (International) from the Georgetown University Law Center (1999). Mr. Varma also received a Bachelor of Commerce (B.Comm.) degree from the University of Alberta, Canada (1994).

Benjamin G. Chew

Benjamin G. Chew represents clients involved in commercial litigation and arbitration throughout the United States and internationally. He handles a wide variety of disputes, involving breach of contract, Uniform Commercial Code, products liability, lease and other real estate transactions, personal injury, insurance law, trade association liability, and fraud. He also has substantial experience in arbitration, mediation, and other forms of alternative dispute resolution. In addition, he serves as the firm's primary litigator in Virginia state and federal cases.

Mr. Chew practices before myriad state and federal courts, including bankruptcy, where he has prosecuted and defended several adversary complaints, preference actions and related matters. In recent years, he has successfully defended manufacturers and a major trade association in products liability cases across the nation, and has won defense verdicts for an oil services company in two cases which preserved the company's core intellectual property. He successfully represented the Governments of Dubai, Ecuador, and Honduras in U.S.-based litigation. Currently, he is representing the world's largest manufacturer of industrial batteries in complex litigation in Delaware, prosecuting a major products liability case for a cosmetics company in federal court in New Jersey, defending a pharmaceutical company in a multi-district class action, and pursuing a

major RICO case in the Eastern District of Virginia and a large products liability case in federal court in New Jersey.

Mr. Chew serves as the co-chair of Patton Boggs' Pro Bono Committee. Mr. Chew received his undergraduate degree from Princeton University in 1984 and his law degree from University of Virginia in 1988.

Jude Kearney

Jude Kearney serves chair of Patton Boggs' International Business practice group. Mr. Kearney is an international project finance specialist, counseling clients on the structure and terms of their relationship with others involved in project developments in foreign markets. In his current practice, Mr. Kearney also has significant experience in securities law, mergers and acquisitions, complex litigation, and general corporate matters. In addition, he has substantive experience in all major international markets, and specializes in projects in Africa, Asia, especially China, and other emerging markets. Within this project specialty, Mr. Kearney concentrates heavily in the areas of energy, telecommunications, infrastructure projects, and financial service industries. His clientele includes major U.S. and foreign companies as well as public sector clients, including governments and their relevant agencies, as well as state-owned commercial enterprises.

In the course of developing his renowned project finance and development experiences, Mr. Kearney lived and practiced in Johannesburg, South Africa for five years, culminating in his recognition as one of the top international project finance lawyers and recognition as a top international lawyer in *Chambers Global*'s list of top lawyers.

Mr. Kearney previously served as Deputy Assistant Secretary for Service Industries and Finance at the U.S. Department of Commerce. During his time at the Department, he oversaw the trade offices responsible for government-wide promotional efforts on behalf of the service industry. In particular, these efforts covered the areas of trade policy and export promotion. Mr. Kearney also served as former Lecturer in the Economics Department at the University of Lagos in Nigeria.

Mr. Kearney received his undergraduate degree from Harvard University, with honors, in 1980. He received his law degree from Stanford Law School in 1984. Mr. Kearney served as Co-Chairman of the Black American Law Students Association and was awarded the Michael C. Rockefeller Traveling Fellowship recipient during his academic years.

Ramona L. Quillet

Ramona Quillet counsels clients on a range of issues, primarily in the areas of civil litigation and appellate procedure.

Previously, Ms. Quillet served as a research assistant for Professor Mildred Robinson at the University of Virginia, where she focused on estate taxation and trusts law. During law school, Ms. Quillet actively participated in the Black Law Students Association's Thurgood Marshall Mock Trial competition. As an undergraduate, she volunteered her time writing press releases and tracking bills through various committees for Florida Rep. Arthenia L. Joyner.

Ms. Quillet received a Bachelor of Science in Economics and Political Science, *magna cum laude*, in 2004 and her law degree from the University of Virginia in 2008.

Relman & Dane, PLLC

John P. Relman

John P. Relman is the founder and director of Relman, Dane & Colfax PLLC. Since 1986, Mr. Relman has represented scores of plaintiffs and public interest organizations in individual and class action discrimination cases in federal court. From 1989 to 1999, Mr. Relman served as project director of the Fair Housing Project at the Washington Lawyers' Committee for Civil Rights and Urban Affairs. Under his leadership the project achieved national recognition, winning some of the largest housing, lending, and public accommodations discrimination jury verdicts and settlements obtained in the country.

From 1986 to 1989, Mr. Relman worked as a staff attorney at the National Office of the Lawyers' Committee. Prior to joining the Committee, he clerked for the Honorable Sam J. Ervin III of the U.S. Court of Appeals for the Fourth Circuit and the Honorable Joyce Hens Green of the U.S. District Court for the District of Columbia. Mr. Relman's better-known cases include *Timus v. William J. Davis, Inc.* (\$2.4 million jury verdict for housing discrimination against families with children); *Dyson v. Denny's Restaurants* (\$17.725 million class settlement for racial discrimination against customers); *Pugh v. Avis Rent-A-Car* (\$5.4 class settlement for racial discrimination in the rental of cars); *Gilliam v. Adam's Mark Hotels* (\$2.1 million class settlement for racial discrimination against guests); and *Kennedy v. City of Zanesville* (\$10.8 million race discrimination jury verdict). Mr. Relman has written and lectured extensively in the areas of fair housing and fair lending law and practice and has provided numerous training classes and seminars for plaintiffs' lawyers, fair housing organizations, the real estate industry, and lending institutions. He is the author of *Housing Discrimination Practice Manual*, published by the West Group.

Mr. Relman teaches public interest law at Georgetown University Law Center, where he serves as an adjunct professor. He received his law degree from the University of Michigan in 1979 and undergraduate degree from Harvard in 1983.

Reed Colfax

Reed Colfax is a partner at Relman, Dane & Colfax PLLC, where he represents individuals and organizations in cases under the Fair Housing Act and other federal and state anti-discrimination laws.

Mr. Colfax was lead counsel in *Kennedy v. City of Zanesville*, a sixty-seven plaintiff challenge to the City of Zanesville, Ohio and Muskingum County's refusal to provide water services to a predominately African-American community. The case culminated in a \$10.8 million verdict. Mr. Colfax was also lead counsel in a Fair Housing Act case asserting that zoning policies used by the City of Saratoga Springs, New York had a discriminatory disparate impact on African Americans and families with children, which resulted in a \$1 million verdict to The Anderson Group, an Albany, New York builder that sought to construct a mixed-income housing development in the virtually all-white city.

Prior to joining Relman, Dane & Colfax, Mr. Colfax was the project director of the Fair Housing Project at the Washington Lawyers' Committee for Civil Rights and Urban Affairs from 2000 to 2004 and a Skadden Fellow with the NAACP Legal Defense and Education Fund, Inc., from 1997 to 1999. While with the Washington Lawyers' Committee, Mr. Colfax coordinated and litigated numerous legal challenges to discrimination by restaurants and hotels against African-American motorcyclists attending Black Bike Week in Myrtle Beach, South Carolina. Mr. Colfax was also lead counsel in *2922 Sherman Ave. v. District of Columbia*, a Fair Housing Act case against the District of Columbia for its condemnation of multi-family apartment buildings in predominately Latino neighborhoods of the city. Mr. Colfax has been a frequent lecturer on a variety of issues related to housing and public accommodations discrimination before numerous national, state, and local groups including the NAACP, National Legal Aid and Defenders Association, and the National Fair Housing Alliance.

Mr. Colfax received his undergraduate degree, graduating *magna cum laude*, from Harvard University in 1992 and received his law degree from Yale Law School in 1996.

Jennifer Klar

Jennifer Klar is a partner at Relman, Dane & Colfax. Ms. Klar has extensive experience litigating federal discrimination cases, including in areas of employment, housing, and police misconduct. As a result of her work in race discrimination cases, Ms. Klar has twice been a Finalist for the "Trial Lawyer of the Year" awarded by Trial Lawyers for Public Justice.

Ms. Klar currently represents a putative nationwide class of all African-American Special Agents of the United States Secret Service claiming racial discrimination in promotions by the Secret Service. *Moore, et al. v. Napolitano*, Civ. Case No. 00-953 (D.D.C.). In 2010, Ms. Klar was lead counsel in a two-week federal jury trial in which the jury returned a \$900,000 verdict on behalf of five African-American officers of the

Washington, D.C. Metropolitan Police Department. *Caudle, et al. v. District of Columbia*, Civ. Case No. 08-205 (D.D.C.).

In 2009, Ms. Klar led a trial team that won a \$250,000 verdict on behalf of an African-American couple whose landlord removed and burned all their belongings while they were out of town. *Johns v. Stillwell*, Civ. Case No. 07-063 (W.D. Va.). Ms. Klar was a vital part of the litigation team from Relman, Dane & Colfax that secured a federal jury verdict of approximately \$10.8 million for residents of a predominately African-American community who were denied water service on the basis of race for nearly fifty years. *Kennedy, et al. v. City of Zanesville, et al.*, Civ. Case No. 03-1047 (S.D. Ohio).

Ms. Klar served on the investigation and habeas corpus hearing team in the landmark Tulia, Texas case, which resulted in the release from prison of 12 individuals and full pardons for 35 individuals who were wrongfully convicted based solely on the testimony of an unreliable and racist undercover narcotics task force agent. Ms. Klar represented plaintiffs in a federal civil rights action resulting from a similar round-up of African-American individuals in Hearne, Texas. *Kelly, et al. v. Paschall, et al.*, Civ. Case No. 03-179 (W.D. Tex.).

Ms. Klar graduated *magna cum laude* from Harvard Law School in 2002 and received her undergraduate degree *magna cum laude* from Brown University in 1998. Prior to joining Relman, Dane & Colfax, Ms. Klar worked in the Community Services Department at Hogan & Hartson and at the American Civil Liberties Union.

Rutland & Jankiewicz, LLC

Michael A. Rutland

Michael A. Rutland received his undergraduate degree from Troy State University in 1979 (B.S. Psychology), his graduate degree from Troy State University in 1982 (M.S. Psychology), and his law degree from Faulkner University, Thomas Goode Jones School of Law, in 1996 (J.D.).

Mr. Rutland's primary practice areas include family law, juvenile and adult criminal defense, probate, and personal injury. He was admitted to the Alabama State Bar in 1997, and is authorized to practice in both state and federal courts.

Kindaka Sanders, Esq.

Kindaka Sanders is a Tennessee Board of Regents Access & Diversity Assistant Professor at the University of Memphis Cecil C. Humphrey's School of Law. Prior to this position, Mr. Sanders was an Attorney and an Administrator at the law firm of Chestnut, Sanders, Sanders, Pettaway, Campbell & Albright, where he litigated claims involving civil matters, personal injury, employment discrimination, property, intellectual property, family law, entertainment law, wrongful death, and various constitutional issues.

Mr. Sanders is admitted to practice law before the Alabama Supreme Court. He received his undergraduate degree from Morehouse College in 1997 and his law degree from Harvard Law School in 2000.

Strom Law Firm, LLC

Joseph P. Strom, Jr.

Mr. Strom founded the Strom Law Firm in 1996. He currently practices in the areas of complex litigation and class actions, and also defends criminal cases in State and Federal courts in South Carolina. He represents individuals in class actions, personal injury – including traumatic injury, defective products, defective drugs, and nursing home neglect – professional license defense, and predatory lending.

After graduating from law school, Mr. Strom served as law clerk to the Honorable Frank Eppes, Thirteenth Judicial Circuit. In 1985, Mr. Strom joined the Fifth Judicial Circuit Solicitor's Office as an Assistant Solicitor. While serving as Assistant Solicitor, Mr. Strom handled over 200 drug cases, prosecuting the largest heroin trafficking case in South Carolina at that time, a case involving over 100 grams of heroin. In 1986, Mr. Strom became a partner at Leventis, Strom and Wicker. In 1988, he formed the Law Offices of J.P. Strom, Jr. In 1990, he became a partner at Bolt, Popowski, McCullough & Strom.

In 1993, Mr. Strom became a United States Attorney for the District of South Carolina, appointed by President Clinton, becoming the youngest United States Attorney in the country. As the United States Attorney for the District of South Carolina, Mr. Strom created the Violent Crimes Task Force in South Carolina, which Attorney General Reno referred to as "a national model for the country through a provocative violent crime initiative." While serving as United States Attorney, Mr. Strom also served on Justice Department committees relating to organized crime, white collar crime, sentencing guidelines, and juvenile justice.

Mr. Strom is a member of the South Carolina Bar, the South Carolina Association for Justice (past President), the American Association for Justice, the Southern Bar Association, the South Carolina Criminal Defense Lawyer's Association, the Fourth Circuit Judicial Conference, the National Association of Former United States Attorneys and the National Crime Victim Bar Association.

Mr. Strom is admitted to practice in the United States District Court, District of South Carolina and the United States Court of Appeals, Fourth Circuit.

Mr. Strom graduated from the University of South Carolina in 1981 (B.A.) and from the University of South Carolina School of Law in 1984 (J.D.). Mr. Strom also attended the Harvard University Program for Senior Executives in State and Local Government.

Mario A. Pacella

Mr. Pacella is a partner in the Strom Law Firm. He represents individuals in a wide array of civil cases, including class actions, civil rights, social security disability, administrative law, personal injury – including traumatic injury, defective products, defective drugs, nursing home neglect – and predatory lending. Mr. Pacella has also been named as class counsel in numerous class actions in South Carolina and nationwide. He has also represented numerous clients in criminal matters, including individuals and corporations accused of mail fraud, wire fraud, securities fraud, drug distribution, check kiting, and numerous other crimes. In addition, Mr. Pacella has litigated appeals in state and federal courts in South Carolina and Georgia and has appealed cases to the U.S. Supreme Court.

Mr. Pacella graduated from the College of William and Mary in 1994 with degrees in Government and History. While at the College of William and Mary, he was a member of Omicron Delta Kappa, an honorary society for leadership and academic achievement. In 1997, he graduated from the William and Mary School of Law, ranking in the top ten percent of his class.

Immediately following law school, Mr. Pacella clerked for U.S. Magistrate Judge James E. Graham in Brunswick, Georgia. Following his clerkship and prior to joining the Strom Law Firm, Mr. Pacella served as an Assistant Public Defender in DeKalb County, Georgia. He also served as special counsel to the Center for Prisoners' Legal Assistance in Georgia and assisted inmates with habeas corpus petitions and wrote the litigation manual for inmate litigation under 42 U.S.C. Sec. 1983.

Mr. Pacella is a member of the South Carolina, Georgia, and New York State Bars and is admitted to practice law in the Southern, Northern and Middle Districts of Georgia; the U.S. District Court of South Carolina; the U.S. Court of Appeals, Fourth Circuit; and, the U.S. Supreme Court. He is also a member of the South Carolina Association for Justice and the American Association for Justice.

Bakari Sellers

Bakari T. Sellers has worked with the Strom Law Firm, LLC since 2007 and currently serves as a member of the South Carolina House of Representatives, where he has represented the 90th District since 2006.

Mr. Sellers graduated from the South Carolina public school system, and then proceeded to Morehouse College, where he earned a Bachelor of Arts degree in 2005. After graduating from Morehouse College, Mr. Sellers attended the University of South Carolina School of Law where he graduated in 2008.

Mr. Sellers is a member of the South Carolina Bar, the South Carolina Association for Justice, and the National Association of Bond Lawyers.

General Information

Case Name	In re BLACK FARMERS DISCRIMINATION LITIGATION
Docket Number	1:08-mc-00511
Court	United States District Court for the District of Columbia
Nature of Suit	Civil Rights: Other
Related Opinion(s)	820 F. Supp. 2d 78 2012 BL 33396