

**Short Summary of Testimony of  
Alexander J. Pires, Jr., Co-Lead Counsel  
Pigford v. Glickman (“The Black Farmers’ Case”)  
Keepseagle v. Glickman (“The Native American Farmers’ Case”)  
Senate Agriculture Committee  
September 12, 2000**

**Pigford v. Glickman  
(Black Farmers)**

1. Since the implementation of the Consent Decree, more than 24,000 farming families have participated in the claims process.
2. About 61% of the 20,945 Track A claims adjudicated thus far have been approved by the 46 retired adjudicators. Those 11,252 families have received a letter stating that they will receive a payment of \$50,000, debt forgiveness of loans affected by discrimination, a payment to the IRS to cover taxes, and injunctive relief, prohibiting future discrimination and providing for one-time priority loan status. There are about 4000 Track A claims awaiting a ruling.
3. In addition, there are 198 Track B arbitrations. About 45 have been settled or have received a ruling. The awards have been in the \$100,000 to \$800,000 range.
4. The Monitor, Randi Roth, appointed by Judge Friedman to oversee the implementation of Consent Decree, took office on March 1, 2000. She has toured the country to meet with farmers, and provides regular updates to class members through the mail. The Monitor has established a toll-free number to answer farmers’ questions. She has begun to receive appeal requests. She meets regularly with Class Counsel and government counsel to facilitate implementation of the Consent Decree.
5. There is still work to do. Thousands more petitions to file late claims (the deadline is September 15<sup>th</sup>) are pouring in--Class Counsel expects 20,000 late claim petitions--hopefully a large percentage of that receiving approval to submit claim packages.

6. The appeals process for denied claims is still in its early stages. Class Counsel alone has approximately 2,500 Track A appeal requests in our office. Class Counsel and Of Counsel continue to meet with and assist appeal clients across the country.

7. USDA has implemented a unilateral freeze of accelerations and foreclosures against claimants who are appealing their claims.

8. There are 2 key Track A questions:

1. Have the adjudicators of Track A claims been fair? (39% of the claimants have lost).

2. How will the claimants who have lost fare on appeal?

9. There are 2 key USDA implementation questions:

1. Are things changing in the South in USDA/FSA offices?

2. If not, why not?

**Keepseagle v. Glickman**  
**(Native American Farmers)**

1. We filed the class action complaint on November 24, 1999.

2. While the Pigford settlement is resolving the claims of African-American farmers, Native American farmers and ranchers are in federal court responding to the government's (1) motion to dismiss, and (2) motion to deny class certification. The government defends the case even though reports by the Civil Rights Action Team, and the Office of Inspector General found that Native Americans suffered discrimination in USDA programs. Although USDA now claims credit for settling the Pigford suit, it continues to try to defeat the Native Americans in Keepseagle.

3. USDA has been a racist organization, resulting in rampant discrimination against minority farmers. Native Americans deserve the same opportunity as African-Americans to (1)

complain of discrimination, (2) achieve justice, and (3) promote meaningful reform within USDA. So do all farmers injured by USDA's discriminatory actions--whether these acts were based on their race, age or gender.

4. Class Counsel has offered to settle the case. Class Counsel continues to hope that Keepseagle can be resolved in an equitable settlement.

5. Congress must speak. We need Congress' assistance to bring this to a fair and respectable resolution--the alternative, returning to USDA's civil rights program--is no alternative.



United States  
Department of  
Agriculture

Office of the  
Assistant Secretary  
for Administration

Office of  
Civil Rights

1400 Independence  
Avenue SW

Washington, DC  
20250

AUG 30 2000

Case Number: 971223-1260

Chenay Costen  
c/o Alexander J. Pires  
Langston Frazer Sweet & Freese, P.A.  
201 North President Street  
Jackson, MS 39201

Dear Mr. Costen:

The Office of Civil Rights (CR) has reviewed your December 23, 1997, discrimination complaint in which you allege that the Department of Agriculture (USDA) discriminated against you.

The Office of Civil Rights has determined that you are an African American farmer who alleged discrimination based on race related to a credit application. You are a potential member of the African American class of farmers who were eligible to participate in the *Pigford v. Glickman* class action settlement. If you did not opt out of the class action, CR must close your case.

If you have not filed a claim or opted out, you must file a claim no later than September 15, 2000. No extension will be granted. You may obtain a claim form by calling the Facilitator, Poorman Douglas. The telephone number is (877) 924-7483. The claim form must be postmarked no later than September 15, 2000.

No person shall be subjected to reprisal or harassment because he or she filed a discrimination complaint; participated in or contributed to the identification, investigation, prosecution or resolution of civil rights violations in or by any USDA conducted program or activity; or otherwise aided or supported the enforcement of Federal or USDA civil rights laws, rules, regulations, or policies.

This is USDA's final action regarding your complaint. You may wish to consult an attorney. If you have any questions concerning our determination, you may write our office at U. S. Department of Agriculture, Office of Civil Rights, 1400 Independence Ave., S.W., Room 326-W, Washington, DC 20250-9430, to the attention of Program Investigations Division.

Sincerely,

Rosalind D. Gray  
Director  
Office of Civil Rights

✓ cc: Alexander J. Pires

## Monitor Update: Late Claim Deadline

Date Issued: **August 14, 2000**  
Update 001

Office of the Monitor  
*Pigford v. Glickman (D.D.C.)*  
*Brewington v. Glickman (D.D.C.)*  
Post Office Box 64511  
St. Paul, MN 55164-0511  
Phone (toll-free): 1-877-924-7483

## Late Claim Deadline

### 1. Introduction

On July 14, 2000, Judge Paul L. Friedman issued an important Order in the *Pigford* lawsuit that affects the filing of late claims. An Order from the Judge has the force of law.

The Order directs the Facilitator in the lawsuit to send a copy of the Order to a certain category of people. Because the Order is written in legal language, the Monitor's Office feels that a summary and explanation of the Judge's Order might help class members. If you would like to have a copy of the July 14 Order sent to you, please call the Monitor's office at 1-877-924-7483.

This update sets out to explain:

- What late claims are.
- When late claims are allowed.
- How to go about getting a late claim considered.
- The deadline for requesting late claim eligibility under the Judge's new Order.
- The deadline for filing a claim if the late claim is allowed.
- What to do if you have questions about this Monitor Update.

### 2. Late claims—what are they?

In order to be a part of the *Pigford* lawsuit—that is, to be eligible for adjudication under Track A or arbitration under Track B—each person must send to the Facilitator what is known as a Claim Sheet and Election Form. The Consent Decree in the lawsuit—the Consent Decree is the agreement that contains the terms of the settlement—set a deadline for filing the Claim Sheet and Election Form. This deadline was October 12, 1999. Any claim postmarked after October 12, 1999, is a late claim.

### 3. Some late claims are allowed

In some cases, it is possible for a person to be a part of the lawsuit even if his or her claim was filed late. The Consent Decree allows a person to be a part of the case if the person has shown that his or her failure to submit a claim on time was "due to extraordinary circumstances beyond his [or her] control."<sup>1</sup> In other words, someone whose Claim Sheet and Election Form was postmarked after October 12, 1999, can be eligible for Track A adjudication or Track B arbitration if the reason the claimant was late in filing was due to extraordinary circumstances beyond the claimant's control. The Court has directed the

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<sup>1</sup> This language is found in section 5(g) of the Consent Decree.

Consent Decree's Arbitrator to decide whether the failure to file the claim on time was due to extraordinary circumstances beyond the claimant's control.

#### **4. How late claims are allowed**

Three important rules apply when a claimant files a late claim. First, the claimant must file a written request for permission to file a late claim. Please note that the request may not be by phone or other means—it must be in writing. These requests must be filed with the Facilitator. The Facilitator's address is Claims Facilitator, P.O. Box 4390, Portland, OR 97208-4390. The Facilitator records the requests and sends them to the Arbitrator.

Second, the written request must explain in detail the extraordinary circumstance or circumstances beyond the claimant's control that prevented the claimant from filing a Claim Sheet and Election Form on time. The Arbitrator needs to know exactly why the person could not file the claim on time and why that reason was beyond the control of the person.

Third, the Arbitrator's decision on this matter is final. There is no Monitor review of the Arbitrator's decision regarding whether or not a late claim is allowed. This makes it all the more important for people to make sure that the written request for permission to file a late claim explains all of the relevant facts.

#### **5. Judge's new Order—deadline to request permission to file a late claim**

The Judge's July 14, 2000, Order sets a deadline for submitting a written request to file a late claim. That deadline is September 15, 2000. In order to meet the deadline, the written request must be postmarked by Friday, September 15, 2000. The Judge has ordered that no extension of this deadline will be allowed for any reason.

#### **6. After the Arbitrator decides about the late claim**

If the Arbitrator decides that the claimant was unable to file a Claim Sheet and Election Form due to extraordinary circumstances beyond the claimant's control, the claimant is eligible to file a Claim Sheet and Election Form to participate in the lawsuit.

If the Arbitrator decides that the claimant was not prevented from filing a Claim Sheet and Election Form on time because of extraordinary circumstances beyond the claimant's control, that claimant is not eligible for either Track A Adjudication or Track B Arbitration. No appeals from this decision are possible, and a person may not seek another ruling from the Arbitrator.

#### **7. If the Arbitrator decides in favor of claimant—60 days to file a claim form**

If the Arbitrator grants a claimant's request to file a late claim, the claimant may file a Claim Sheet and Election Form with the Facilitator. The Claim Sheet and Election Form must be postmarked no later than sixty days from the date of the letter from the Arbitrator notifying the claimant that his or her request for relief has been granted. No extension of this sixty-day period will be granted for any reason.

#### **8. More information**

Anyone who has questions regarding late claims should feel free to call the Facilitator toll-free at 1-800-646-2873.