

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)
MARILYN KEEPSEAGLE, <i>et al.</i> ,)
)
Plaintiffs,) Civil Action No. 99-03119
) (EGS)
v.)
)
TOM VILSACK,)
Defendant.)
_____)

**ORDER ON MOTION FOR PRELIMINARY APPROVAL OF
SETTLEMENT, AND AN ORDER CERTIFYING SETTLEMENT CLASS AND
APPROVING CERTAIN PROVISIONS IN SETTLEMENT AGREEMENT**

Upon consideration of Plaintiffs' Motion for Preliminary Approval of Settlement, Settlement Class, Notice, Proposed Administrators, Attorney's Fees, and Service Awards, and the revised Settlement Agreement filed on November 1, 2010, and the entire record herein

It is hereby **ORDERED** that the motion is **GRANTED**:

- (1) The Settlement Agreement, as revised November 1, 2010, is preliminarily approved;
- (2) Attorney's fees for individual counsel for Track A Claimants are capped at 2% of a Track A final award, and attorney's fees for individual counsel for Track B Claimants are capped at 8% of a Track B final award;
- (3) Kinsella Media, LLC is approved as the Notice Administrator for the Settlement Agreement;
- (4) Epiq Systems is approved as the Claims Administrator for the Settlement Agreement;

(5) JAMS is approved as the Neutral for the Settlement Agreement;

(6) The provision for Implementation Costs set forth in Section VII.B-D of the Settlement Agreement is approved. The Secretary is authorized to disburse to Class Counsel, for the benefit of the Class, the funds specified in Section VII. The Court finds that the expenditure of such funds for this Settlement 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 Settlement Agreement becomes void or is voided;

(7) The following attorneys are approved as Class Counsel: Joseph M. Sellers, Christine E. Webber, Peter Romer-Friedman of Cohen Milstein Sellers & Toll, PLLC; David J. Frantz of Conlon, Frantz & Phelan, LLP; Paul M. Smith, Katherine A. Fallow, Michael Brody, Jessica Ring Amunson, and Carrie Apfel of Jenner & Block, LLP; Anurag Varma of Patton Boggs LLP; Phillip L. Fraas of Stinson, Morrison and Hecker; and Sarah Vogel;

(8) The following individuals are approved as Class Representatives: Gene Cadotte, Keith Mandan, Porter Holder, Marilyn Keepseagle, and Claryca Mandan;

(9) The Court hereby affirms its prior decision certifying the class described below to allow it to pursue declaratory and injunctive relief pursuant to Fed. R. Civ. P. 23(b)(2), and to allow the same class to pursue claims for damages pursuant to Fed. R. Civ. P. 23(b)(3):

All persons who are Native American farmers and ranchers who (1) farmed or ranched or attempted to farm or ranch between January 1, 1981 and November 24, 1999; (2) applied to the USDA for participation in a farm loan program during that period; and (3) filed a discrimination complaint with the USDA either individually or through a representative with regard to alleged discrimination that occurred during the same time period.

(10) The proposed Notices, attached as Exhibits I and J to the revised Settlement Agreement, are approved, and the parties' plan for dissemination of notice of the Settlement Agreement pursuant to Fed. R. Civ. P. 23(e)(1) is approved;

(11) A status report from the Notice Administrator must be filed no later than December 15, 2010;

(12) A status conference will be held on January 4, 2011 at 11:30 AM;

(13) Plaintiffs' Petition for an Award of Attorneys' Fees must be filed no later than January 14, 2011;

(14) Plaintiffs' Memorandum in Support of Class Representative Service Awards must be filed no later than January 21, 2011;

(15) All objections to the Settlement Agreement and all opt-out notices must be postmarked no later than February 28, 2011;

(16) The Notice Administrator will file a declaration and any additional necessary documentation regarding the provision of notice for this Settlement Agreement, and regarding the objections and opt-out notices received, by no later than March 15, 2011;

(17) Any response the Defendant may file to the Petition for an Award of Attorneys' Fees and the Memorandum in Support of Class Representative Service Awards must be filed no later than March 18, 2011;

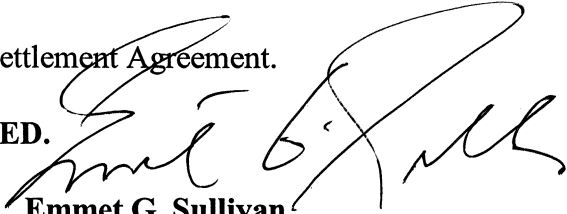
(18) Any responses either or both parties file in response to objections to or comments about the proposed Settlement Agreement must be filed no later than April 1, 2011;

(19) Pursuant to Rule 23 (e), Fed. R. Civ. P., the Court will hold a fairness hearing on April 28, 2011 at 10:00 AM in Courtroom 24A.

(20) This Order shall be published wherever the parties or the Notice Administrator publish the Settlement Agreement.

SO ORDERED.

Signed:

A handwritten signature in black ink, appearing to read "Emmet G. Sullivan", written over the printed name.

Emmet G. Sullivan
United States District Court Judge
November 1, 2010