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

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| **ROSEMARY LOVE et al.,** | ) | |
| **Plaintiffs,** | ) | **Civil Action No. 00-2502 (RBW)** |
| **v.** | ) | |
| **TOM VILSACK, Secretary of the United States Department of Agriculture,** | ) | |
| **Defendant.** | ) | |

**DEFENDANT'S OPPOSITION TO MOTION TO INTERVENE**

Plaintiffs filed this suit eleven years ago. Class certification was denied five years ago. Defendant recently announced the creation of a voluntary alternative dispute mechanism that will promptly and inexpensively resolve the claims of any of the ten plaintiffs in this case and of the 81 plaintiffs in Garcia v. Vilsack (C.A. No. 00-2445 (RBW)), and any other Hispanic or female farmer who believes that he or she was the victim of discrimination in certain farm credit programs between 1981 and 2000. Several hundred women farmers who contend that their discrimination complaints are like the plaintiffs' complaints have suddenly attempted to intervene. Their motion should be denied.

The proposed interveners have structured their motion in the form of a class action, by listing hundreds of women farmers as putative plaintiffs but including facts about only a handful of the group. In light of the disposition of the plaintiffs' motion for class certification, the proposed interveners cannot reargue that issue. See Fleck v. Cablevision VII, Inc., 807 F.Supp. 824, 826 (D.D.C. 1992); Contreras v. Ridge, 305 F. Supp. 2d 126, 134 n.4 (D.D.C. 2004).

Nor can they circumvent this limitation by intervention as a matter of right or by permission under Fed. R. Civ. P. 24(a) and (b), respectively. One criterion for intervention by right when it is not guaranteed by a federal statute is that the proposed intervener has an interest in the property or transaction that is the subject of the main action so that disposition of the main action "may as a practical matter impair or impede the movant's ability to protect its interest[.]" Rule 24(a)(2). When the Court of Appeals affirmed this Court's decision denying class certification, it explained that plaintiffs' claims were not "common" because each putative class member's claim turned on events unique to that person.[1] Thus, disposition of the existing plaintiffs' claims will have no effect on the ability of the putative interveners to protect their own interests.

One criterion for permissive intervention is that it "will [not] unduly delay or prejudice the adjudication of the original parties' rights." Fed. R. Civ. P. 24(b)(3). There are only ten plaintiffs in this suit, which they brought under a frequently litigated statute. Their claims can be resolved easily and promptly in the normal course of civil litigation. Adding hundreds of plaintiffs to this case clearly will delay the disposition of the plaintiffs' claims by many years, a result that obviously would be prejudicial to defendant's interests.[2]

The proposed interveners claim that their motion is timely despite the fact that this action was filed more than a decade ago and class certification was denied five years ago. To excuse their delay, they contend that they could not have intervened earlier because the case was stayed.

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[1] Love v. Johanns, 439 F.3d 723, 730 (D.C. Cir. 2006); see also Love v. Veneman, 224 F.R.D. 240, 243 (D.D.C. 2004).

[2] An additional substantial delay could result from motions to change venue. See Garcia v. Veneman, Order dated July 8, 2009 [Docket No. 173].

Yet the stay remains in effect. If moving to intervene now while a stay is in place is acceptable, it also would have been acceptable eleven years ago when this litigation was initiated and no stay was in place, or in 2006 when class certification was finally denied.

Dated: April 5, 2011

Respectfully Submitted:

TONY WEST
Assistant Attorney General

RONALD C. MACHEN JR.
United States Attorney

*/s/ Peter T. Wechsler*
MICHAEL SITCOV
PETER T. WECHSLER (MA 550339)
United States Department of Justice
Civil Division
Federal Programs Branch
20 Massachusetts Avenue, N.W.
Washington, D.C. 20530
Tel.: (202) 514-2705
Fax: (202) 616-8470
Email: peter.wechsler@usdoj.gov