

Women Farmers Challenge Denial of Class Certification before D.C. Circuit

WASHINGTON—Arent Fox Chairman Marc L. Fleischaker, the lead attorney representing a group of women farmers in a discrimination case against the U.S. Department of Agriculture, argued the case before a three-member panel of the D.C. Circuit on Feb. 6 in a challenge to a trial court's denial of class certification.

The case, *Love v. Johanns, Secretary of the United States Department of Agriculture*, has been brought by 10 women farmers who seek to have the case certified as a class action on behalf of women across the country who were refused loan application forms, denied loans or suffered other discriminatory misconduct by the USDA in the implementation of its direct loan program to women farmers because of their gender.

“Thousands of women have been systematically refused applications or denied loans because of a perception that farming is not appropriate work for women,” said Fleischaker. “The federal government should be the last place where such discriminatory practices are allowed to flourish.”

Given the significance of the issues raised in the case, Fleischaker's oral argument was held before a packed courtroom. Another appeal heard on the same day, *Garcia v. Johanns*, also involves discrimination claims against USDA, by Hispanic farmers.

In support of their motion for class certification, the *Love* plaintiffs submitted nearly 2,000 declarations from women across the country who were discriminated against by the USDA when they sought farm loans from the agency. Despite this support, the trial court, the U.S. District Court for the District of Columbia, denied the plaintiffs' motion for class certification in September 2004.

The plaintiffs appealed the trial court's decision to the D.C. Circuit, and the appeal was assigned to the three-member panel of Judge David B. Sentelle, Judge Harry T. Edwards and Judge Karen LeCraft Henderson. It is expected that the D.C. Circuit will issue a decision later in the year.

The women plaintiffs in *Love v. Johanns* are being represented pro bono by lawyers from the Washington, D.C., law firm of Arent Fox, the Washington Lawyers' Committee for Civil Rights and Urban Affairs and others.

Additional information is available at www.womenfarmers.com.

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