

Women Farmers' Discrimination Lawsuit, *Love v. Johannes*

Brief Summary

Women farmers filed a discrimination lawsuit on October 19, 2001 against the U.S. Department of Agriculture for gender discrimination in the administration of its farm loan programs. See *Love v. Johannes*, C.A. No. 1:00CV02502 (D.D.C.); see also www.womenfarmers.com. The Love plaintiffs are seeking to have the case certified as a class action to challenge the denial of loans to women farmers by USDA's Farm Service Agency (FSA) or its predecessor Farmer's Home Administration (FmHA) from 1981 to 1996 and October 19, 1998 to the present. For the women who were able to obtain farm loans from USDA, many were denied loan servicing normally available to other borrowers. Many women have had to give up farming altogether as a result of being unable to obtain farm loans from USDA.¹

The *Love* plaintiffs filed a motion to file a third amended complaint in the spring of 2003. In July 2003, the Court granted the plaintiffs' motion to file an amended complaint. On January 16, 2004 plaintiffs filed a motion for class certification with regard to two of the three proposed subclasses: (1) women who were not provided loan applications, and (2) women who were denied an initial farm loan.² Because of the lack of USDA data regarding these first two subclasses, plaintiffs' counsel have been engaged in media outreach to identify and contact potential class members nationwide.³ The Plaintiffs are also pursuing claims against the USDA under the Administrative Procedure Act for the federal agency's failure to investigate women farmers' complaints of gender discrimination in being denied farm loans, loan servicing or disaster benefits, and for the USDA's discriminatory denial of women farmers' applications for disaster benefits.

The Plight of Women Farmers

Currently there are approximately 150,000 women who operate farms in the United States. A significant portion of past and current women farmers and women who attempted to farm have applied or attempted to apply for farm loans through FSA or its predecessor FmHA but were turned down due to their gender. The discrimination against

¹ In 1998, Congress extended the statute of limitations for claims against USDA for discrimination that took place between 1981 and 1996. See Omnibus Consolidated Appropriations Act for Fiscal Year 1999, P.L. 105-277, Div. A, § 101(a) [§741], 112 Stat. 2681 (codified at 7 U.S.C. § 2279). Congress took this drastic step in response to reports that USDA's civil rights enforcement program had been dismantled in 1983. As a result of the curtailment of USDA's civil rights enforcement capability, complaints of discrimination lodged during that time period were largely disregarded. As a result of the extension of the time period for filing discrimination claims, several discrimination suits were filed by farmers across the country.

² The third subclass is comprised of women farmers who received an initial loan from USDA but were denied servicing, had difficulty in obtaining subsequent loan servicing, or received less loan servicing than needed.

³ There is a website containing up-to-date information regarding the lawsuit: www.womenfarmers.com. In addition, plaintiffs' counsel have established a toll-free number, 1-877-208-4342, for women to call if they believe they were discriminated against by USDA in the administration of its farm loan programs.

women farmers arose out of the structure, policies and practices of the USDA's farm loan program, which vests virtually unrestrained authority in county and state offices to exercise in applying excessively subjective standards for reviewing farm loan applications. The following states have particularly high percentages of women farmers who have not received their proportionate share of USDA farm loans: Texas, Florida, Iowa, Illinois, Wisconsin, South Carolina, North Carolina, Missouri, Minnesota, Kentucky, Tennessee, Georgia, Ohio, Michigan, Oregon, Washington and New York.

Individual Stories of Women Farmers

The discrimination experienced by women throughout the country is best understood through the individual stories of the women who have attempted to apply for farm loans. These three stories are illustrative of the experiences of women throughout the country.

Lind Bara-Weaver's difficulties with FSA began in 1984 when she sought to obtain an FSA loan in order to purchase and operate a 16.5-acre farm where she planned to raise Welch ponies, holly trees and worms. Ms. Bara-Weaver was repeatedly refused loan applications by FSA staff at the Loudon County, Virginia office. She was told that there were no loan application forms or loan funds available. Yet Ms. Bara-Weaver's husband was able to obtain a loan application during this same time period by simply calling the FSA office and requesting that an application be mailed to him. She tried to obtain a farm loan from FSA again in 1988, but to no avail. After some difficulty, she was able to obtain an application, but was told by the FSA loan officer for Loudon County that women could not run farms. The loan officer also called her patronizing names like "cutie" and "honey," and made sexual advances toward her. While making a visit to her farm in order to appraise it during the loan review process, the loan officer again made sexual advances toward her, which she refused. Her loan application was subsequently denied. Ms. Bara-Weaver lodged a formal complaint with the FSA state office in Richmond, Virginia, and with the USDA Office of the Inspector General in Washington, D.C., but never received a response to either of her complaints.

After her husband's death, Ms. Bara-Weaver relocated to Florida and sought again to apply for a farm loan from FSA. She visited the Flagler County, Florida FSA office a number of times in 2000 before she was finally able to obtain an application form. When she submitted the completed application in person to the Flagler County office, the loan officer asked her how she expected to farm without a man around, and then he threw her application in the wastebasket right in front of her.

Plaintiff Joyce A. King endured similar experiences in Lincoln County, Arkansas. In 1983, she attempted to obtain a loan application from the local FSA office. She was initially told it was too early in the year to apply. She continued to visit the local FSA office, and repeatedly received the same answer. Eventually she was told that she was now too late to apply. When she complained to the county supervisor, he refused to help and informed her that women were not cut out for farming because they were a risk and could not make a profit.

For those women who were able to obtain a farm application, they were often rejected without explanation. That is what happened to plaintiff Mary L. Brown, of Fitzgerald, Georgia. With over fifteen years of experience farming various crops including peanuts, cotton, corn and tobacco, Ms. Brown applied for a farm operating loan from FSA in 1985. After failing to receive a response from FSA, Ms. Brown called the local FSA office to inquire about the status of her application. She was told that she did not qualify for a loan. Not to be deterred, Ms. Brown visited the FSA office and spoke with a male loan officer about her loan application. The loan officer expressed surprise that a woman would apply for a farm operating loan for her own use, yet he could not provide her with any specific reason why she did not qualify for the loan. Because she did not receive the much-needed loan funds, Ms. Brown was forced to quit farming. She called the FSA office multiple times to complain, however the FSA staff refused to speak with her about her complaint.

Reports Criticizing USDA's Civil Rights Record

Reports by the federal government itself support these women's claims of rampant discrimination by USDA in the administration of its farm loan programs and underscore that their complaints of discrimination have not been heard. See, e.g., USDA Office of Inspector General, Office of Civil Rights Status of the Implementation of Recommendations Made in Prior Evaluations of Program Complaints - Phase VII, cover letter at 1 (Mar. 10, 2000) ("This is our seventh attempt to provide [OCR] with constructive ways to overcome its inefficiencies. Based on the results of our review and on the operating environment we observed at [OCR], we cannot report encouraging news."); U.S. Equal Employment Opportunity Commission Report, at 21 (Feb. 23, 2003) (concluding that "[d]elays of processing EEO complaints, the absence of effective oversight of EEO programs, and the lack of proper separation between the Office of General Counsel and the Office of Civil Rights, has severely impacted the integrity, efficiency, and professionalism of the Office of Civil Rights, the programs it administers, and its staff.").

As recently as September 2003, the U.S. Commission on Civil Rights issued a report that focused on the continued poor civil rights record of the USDA. See U.S. Commission on Civil Rights, Ten-Year Check-up: Have Federal Agencies Responded to Civil Rights Recommendations (Sept. 2003): "Since the Commission's 1996 report, there is little evidence that [USDA] has changed or improved what the Commission found to be a complicated civil rights enforcement program, nor has it addressed the Commission's recommendations significantly." *Id.* at 2. This has been confirmed by numerous voices from within USDA, including former head of USDA's Office of Civil Rights, Rosalind Gray, who indicated that she "would agree that [USDA's] procedures in handling bias claims had been flawed." New York Times article (Jan. 5, 1999). See also USDA Civil Rights Action Team ("CRAT"), CRAT Report (Feb. 1997) (report exposing discriminatory practices of USDA).

Women farmers have been subjected to widespread discrimination by USDA in its administration of farm loan programs. While women are farming in increasing numbers,

they have been and continue to be under-represented in USDA's farm loan programs. Through the *Love v. Johannes* lawsuit and other avenues, it is hoped that the public will become more aware of the issues facing women farmers. To date, USDA has yet to fairly address the systemic problems that have led to discrimination of women farmers throughout the country.