

Federation of Southern Cooperatives/

Land Assistance Fund

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Update on the Black Farmer Lawsuit Against the USDA

Case is now in the "Notice" Phase

ATLANTA... On May 13, 2011 Judge Paul Friedman in the US District Court issued an order to preliminarily approve the second phase of the Black farmer lawsuit against the U.S. Department of Agriculture, known as the Pigford II Settlement. This meant that the class action case could enter into the notice phase, which is where we are now. Judge Friedman also scheduled a "fairness hearing" for Pigford II on September 1, 2011. Not long after the hearing, we expect to move into the 180 day period for claims submissions.

Congress has approved \$1.25 billion for this Settlement. It is expected that no monies for successful claimants will be distributed until, perhaps, sometime in late 2012. The reason for the delay in the distribution is that the amount of the awards for successful claimants cannot be determined until it is known how many total claimants are successful.

The Settlement is only for those persons who previously filed a petition to participate in the settlement of the original Pigford case after the original claim deadline in that case, which was October 12, 1999, and were denied the opportunity to participate.

Below is information that might be helpful to those of you interested in following the specifics of the case.

1) Class Definition for Pigford II from the Settlement

Class is defined as "all individuals:

(1) who submitted late-filing requests under Section 5(g) of the Pigford v. Glickman Consent Decree on or after October 13, 1999 and on or before June 18, 2008; but

(2) who have not obtained a determination on the merits of their discrimination complaints, as defined by Section 1(h) of the Consent Decree."

Please note that we were told originally that the class would be those who filed a petition late - up to the deadline of September 15, 2000 (there are some 58,000 in this group). The "late-late" filers, who filed after September 15, 2000 and up to June 18, 2008, are a separate group and there was uncertainty what would happen with them. In the Settlement they were included, although it is possible that they will receive a lower award than the class members who filed earlier. Whether these "late-late" filers receive the same amount as the earlier filers will not be known until the total number of successful claimants is determined. The entire settlement can be found here at [Black Farmer Settlement Agreement \(PDF\)](#).

(2) Notice Phase

In this first phase of the notice, a postcard has gone to all those in Section 5(g) referred to above. It includes a toll free number for potential claimants to call which is 877 810 8110. This is the phone number for the claims administrator. By calling the 877 phone number individuals can receive information about the lawsuit and the availability of Class Counsel to assist potential claimants in filing claims, as well as sign up to receive the claims package. Information can also be found on the website at www.blackfarmercase.com.

This extensive notice around the country to late filers is being implemented by Kinsella Media. Their plan was approved by the court. The plan includes postcards to potential claimants; notices in newspapers; notices in magazines, such as Jet, and agriculture publications; public service announcements on radio stations, etc.

(3) Filing claims

As mentioned, we are not yet at the stage where individuals can file a claim in the lawsuit. The claims process will not begin until Judge Friedman approves the settlement, which we expect to take place sometime in September.

Once the judge approves the settlement there will be a 180 day period for individuals to file their claim.

It should be noted that class counsel plans to conduct a test run of the claims process this summer before the fairness hearing, involving several hundred claimants in Mississippi and Alabama. Claimants who are not contacted by class counsel to participate in this test run should not be concerned, because the actual claims process will not begin until early September or later. Also, there is no disadvantage to filing later than someone else, since no one will receive an award under the Settlement until all claims have been decided.

(4) Time Line

- A few months ago the attorneys in Pigford II submitted the settlement to Judge Paul Friedman in the US District Court. It included certain changes required by Congress as a condition for the \$1.25 billion of funding that was approved.
- On May 13, 2011, Judge Paul Friedman "preliminarily" approved the settlement he received from the attorneys. This meant that the "notice" phase of the lawsuit could begin.
- September 1, 2011 - Judge Paul Friedman will hold the "Fairness Hearing" in his court in Washington DC to hear from anyone who wants to object to or comment on the Settlement.
- After Judge Friedman approves the settlement the 180 day (6 months) period for filing claims begins.
- No monies will go to claimants who prevail until the latter part of 2012 or perhaps later.

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