

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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

MOTION TO INTERVENE

The following persons (collectively “movants” or “intervenor-plaintiffs”), listed below in alphabetical order, by and through their undersigned counsel, hereby move the Court pursuant to Rule 24 of the Federal Rules of Civil Procedure for leave to intervene in the above captioned action.

Last Name	First Name	Middle Name	Representing	City	State	Zip Code
Adams	Barbara	E.	Everline M. Burnett	Dozier	AL	36028
Anderson	Christine	Brayboy	Herself	Lake City	SC	29560
Anderson	Gladys	Scott	Herself	Kingstree	SC	29556
Barnett	Shirley	L.	Daisy Rieves	Montgomery	AL	36116
Barnett	Shirley		Herself	Montgomery	AL	36116
Barr	Dorothy	Mae	Herself	Glen Burnie	MD	21061
Barr	Jeanette		Herself	Hemingway	SC	29554
Barr	Judy		Herself	Lake City	SC	29560
Beauchamp	Nina	F.	Ida Wilson	Montgomery	AL	36105
Bell	Ruth	Ann	Herself	Montgomery	AL	36117
Bell	Sarah	Nadine	Herself	Fort Deposit	AL	36032
Blanding	Claudia	Jean	Herself	Pinewood	SC	29125
Blanding	Elizabeth		Herself	Manning	SC	29102
Blanding	Julia	Faye	Herself	Lake City	SC	29560
Blount	Dicy	Deloris	Herself	Effingham	SC	29541

Last Name	First Name	Middle Name	Representing	City	State	Zip Code
Bonner	Barbara	Ann	Herself	Dinwiddie	VA	23841
Bonner	Rosa	Bolling	Herself	Dinwiddie	VA	23841
Bosier	Betty	Brown	Herself	Manning	SC	29102
Bowman	Emma	Bell	Herself	Prattville	AL	36067
Bradley	Annie	Mae	Herself	Kingstree	SC	29556
Brayboy	Annette	C.	Herself	Hemingway	SC	29554
Brown	Dorothy	L.	Herself	Greeleyville	SC	29056
Brown	Flora	M.	Lillie Posey Bretha Sidney	Prattville	AL	36067
Brown	Geneva	C.	Herself	Warfield	VA	23889
Brown	Lear	H.	Herself	Manning	SC	29102
Brown	Marsha	Linda	Herself	Montgomery	AL	36116
Brown	Marsha	Linda	Garner	Montgomery	AL	36116
Bryant	Janet	Lee	Herself	Nesbit	MS	38651
Burgess	Joan	M.	Herself	Kingstree	SC	29556
Burgess	Melissa	Ann	Herself	Florence	SC	29505
Burgess	Ula	Dean	Herself	Lake City	SC	29560
Burgess	Wendy	Latisa	Herself	Lake City	SC	29560
Burgess	Willa	Dean	Herself	Cades	SC	29518
Caldwell	Ola	B.	Herself	Lake City	SC	29560
Cameron	Mary	Lee	Herself	Lake City	SC	29560
Carr-Newkirk	Clementine	Virginia	Lottie T. Carr	Clinton	MD	20735
Carroll	Lizzie		Herself	Andrews	SC	29510
Carstarphen	Cheryl	Lashaunta	Herself	Coy	AL	36435
Carter	Barbara	Williams	Herself	Camden	AL	36726
Carter	Mary	Lee	Herself	Kingstree	SC	29556
Causley	Mae	Bell	Herself	Mound Bayou	MS	38762
Christian	Sandra	A. Mayfield	Herself	Little Rock	AR	72204
Christian	Sandra	A.	Daisy Lee Mayfield	Little Rock	AR	72204
Coe	Linda		Herself	Darlington	SC	29532
Cole	Joyce	Marie Wade	Pauline Virginia Wade	Dyersburg	TX	38024
Collins	Quincess	Margaret	Herself	Jackson	MS	39206
Conwell	Bonita	Antionette	Herself	Mound Bayou	MS	38762
Conwell	Bonita		Sarah Conwell	Mound Bayou	MS	38762

Last Name	First Name	Middle Name	Representing	City	State	Zip Code
Conyers	Mary	M.	Herself	Kingstree	SC	29556
Cooper	Maggie	Eve	Herself	Lake City	SC	29560
Cooper	Ola	Tyshira	Herself	Lake City	SC	29560
Crear	Rosie	Marie	Herself	Catherine	AL	36728
Creecy	Elizabeth	A.	Clementine Creecy	Murfreesboro	NC	27855
Criss	Rhonda	Sherryl	Herself	Mound Bayou	MS	38762
Cross, Jr.	Napolean		Annie E. Cross	Franklin	VA	23851
Cutter	Alice	H.	Herself	Manning	SC	29102
Davis	Emma		Herself	Kingstree	SC	29556
Davis	Mary	Ann	Herself	Andrews	SC	29510
Davis	Velvet	Nikita	Herself	Prattville	AL	36067
Davis	Mary	Ann	Herself	Selma	AL	36701
Davison	Janet	Duvall	Herself	Greensboro	GA	30642
Deas	Doris	Nowlin	Herself	Florence	SC	29501
DeVaughn	Annette	"Cora"	Herself	Deatsville	AL	36022
Doster	Orlandia	Hubbard	Herself	Mt. Croghan	SC	29727
Driver	Mary	Catherine	Herself	Etta	MS	38627
Duhon	Melanie	Tirey	Herself	Isola	MS	38754
Duncan	Lillie	Mae	Herself	Pamplice	SC	29583
Eaddy	Vernelle		Herself	Hemingway	SC	29554
Edwards	Josephine		Herself	Donalsonville	GA	39845
Edwards	Ruth	S.J.	Herself	Carson	VA	23830
Elder	Virginia	A	Everline M. Burnett	Dozier	AL	36028
Ellison	Mary	Louise	Herself	Mercer	TN	38392
Epperson	Margaret	Jones	Herself	Prospect	VA	23960
Epps	Jannie	Lou	Herself	Lake City	SC	29560
Evans	Dottie	M.	Herself	Andrews	SC	29510
Evans	Ella	T.	Herself	Prairie	MS	39756
Evans	Erla		Addie Evans	Prairie	MS	39756
Fair	Dalphine	Hubbard	Herself	Mt. Croghan	SC	29727
Felder	Estelle	R.	Herself	Johnsonville	SC	29555
Foster	Julie		Herself	Prattville	AL	36067
Fowler	Becky	Tyler	Herself	Galivants Ferry	SC	29544

Last Name	First Name	Middle Name	Representing	City	State	Zip Code
Franklin	Rosa	Lee	Herself	Kingstree	SC	29556
Frazier	Pearline		Herself	Salters	SC	29590
Frierson	Rosa	Ann	Herself	Florence	SC	29515
Fullard	Doretha		Herself	Timmonsville	SC	29161
Fulton	Jestine	H.	Herself	Kingstree	SC	29556
Fulton	Linda	J.	Herself	Kingstree	SC	29556
Fulton	Lydia	Natasha	Herself	Kingstree	SC	29556
Fulton	Maggie		Herself	Kingstree	SC	29556
Fulton	Mattie	Deloris	Herself	Kingstree	SC	29556
Fulton	Rebecca	Sharon	Herself	Kingstree	SC	29556
Gamble	Batina	Sharnette	Herself	Pinewood	SC	29125
Gamble	Dorothy	L.	Herself	Salters	SC	29590
Gamble	Gennie	Beatrice	Herself	Kingstree	SC	29556
Garris	Marie	C.	Herself	Manning	SC	29102
Gattas	Rebecca	Jane	Herself	Crumrod	AR	72328
Generette	Sharon	Timmons	Herself	Florence	SC	29505
Gillespie	Aundrey	Yvonne	Herself	Cheraw	SC	29520
Gillespie	Elizabeth		Herself	Cheraw	SC	29520
Gissendanner-Goodson	Olympia		Clara Ingram Gissendanner	Montgomery	AL	36109
Grant	Helen	N.	Herself	Isola	MS	38754
Green	Halmellia	Inga	Herself	Lake City	SC	29560
Green	Mary	Elizabeth	Herself	Lake City	SC	29560
Hall	Kennedy		Mae Rose Hall	Prentiss	MS	39474
Hammock	Mabel	H.	Herself	Andrews	SC	29510
Hammond	Darlene		Herself	Lake City	SC	29560
Hammond	Herlene		Herself	Lake City	SC	29560
Hammond	Leola		Herself	Kingstree	SC	29556
Harden	June		Herself	Kingstree	SC	29556
Harris	Polly	Y.	Nannie P. Yates	Petersburg	VA	23805
Harrison	Martha	L.	Herself	Florence	SC	29505
Haynes	Amanda	Timmons	Herself	Sumter	SC	29154
Hendricks	Elnora	Jones	Herself	Prospect	VA	23960
Hendricks	Mozell		Herself	Bronx	NY	10466

Last Name	First Name	Middle Name	Representing	City	State	Zip Code
Hention	Ruby		Herself	Donalsonville	GA	39845
Hention	Versie		Herself	Donalsonville	GA	39845
Hicks	Imogene	Williford (Dunn)	Essie Maude Williford	Troy	Al	36081
Hicks	Imogene	Williford (Dunn)	Herself	Troy	Al	36081
Hills	Annie	T.	Herself	Andrews	SC	29510
Hobgood	Rebecca	G.	Herself	Holcomb	MS	38940
Hooker	Angelea	Rose (Hall)	Herself	Mount Olive	MS	39113
Huff	Rosie	L.	Herself	Camden	AL	36726
Hutchins	Bonnie	Jean	Herself	Mound Bayou	MS	38672
Izzard	Antoinette	Meria	Herself	Florence	SC	29501
Jackson	Lajuana	D.	Herself	Little Rock	AR	72214
Jacobs	Bennie	Ruth	Herself	Bakersfield	CA	93304
Jemison	Cherri	Nicole	Mamie Jemison	Selma	AL	36703
Johnson	Alfrieda		Herself	Effingham	SC	29541
Johnson	Frances	G.	Annie Bell Harrison	Florence	SC	29505
Johnson	Joan	M.	Herself	Garland City	AK	71839
Johnson	Pearl		Herself	Kingstree	SC	29556
Joines	Delphine	Hubbard	Herself	Mt. Croghan	SC	29727
Jones	Betty	Faye	Herself	Hawkinsville	GA	31036
Jones	Chante	Parker	Bettye Ann Marshall Parker	Irvington	AL	36544
Jones	Emma	S.	Herself	Prospect	VA	23960
Jones	Felicia	Ann	Herself	Warner Robins	GA	31088
Jones	Lula		Herself	Prospect	VA	23960
Jones	Wilsie		Herself	Prospect	VA	23960
Jordan	Valencia		Ruby Blake	Prattville	AL	36067
Kearney	Janetta		Herself	Little Rock	AR	72203
King	Chistine		Herself	Luverne	AL	36049
Landrum	Callie		Herself	Prairie	MS	39756
Latham	Julia		Herself	Winstonville	MS	38781
Lewis	Kay	F.	Herself	Fort Worth	TX	76133
London	Laura	Ann	Herself	Montgomery	AL	36116
Long	Ronetta	Renee	Herself	Washington	DC	20011

Last Name	First Name	Middle Name	Representing	City	State	Zip Code
Lowery	Francie	Hubbard	Herself	Charlotte	NC	28216
Lucas	Mary		Herself	Phenix City	AL	36869
Lykes	Yolanda	E.	Mattie Lykes	Prattville	AL	36067
Malloy	Betty	Pearson	Bettie P. Pearson	Bennettsville	SC	29512
Martin	Anglea	Prycetta	Herself	Camden	AL	36726
Mathis	Dorothy		Herself	Pinewood	SC	29125
Mayfield	Inell		Carlee Jackson	Wilmot	AR	71676
Mayfield	Inell		Herself	Wilmot	AR	71676
McAllister	Linda		Herself	Washington	DC	20018
McBride	Mae	Belle	Herself	Andrews	SC	29510
McClary	Bernice	McFadden	Herself	Kingstree	SC	29556
McClary	Delores	S.	Herself	Homestead	FL	33032
McClary	La Sheena	S.	Herself	Homestead	FL	33032
McCrea	Vivian	Estelle	Herself	Capital Heights	MD	20743
McCullough	Nellie		Herself	Effingham	SC	29541
McF+A202adden	Annie	Ruth	Herself	Kingstree	SC	29556
McFadden	Loretta	L.	Herself	Kingstree	SC	29556
McFadden	Sarah	W.	Herself	Kingstree	SC	29556
McGuire	Lily	Mae	Herself	Sardis	AL	36775
Mckenzie	Dorothy	Gean	Herself	Olanta	SC	29114
McKenzie	Martha	R.	Herself	Mound Bayou	MS	38762
McKnight	Rose	M.	Herself	Mound Bayou	MS	38762
McMillian	Daisy	M.	Herself	Coy	AL	36435
Miffin	Mennie	Mae	Herself	Hawkinsville	GA	31036
Miller	Jereleen	Hollimon	Herself	Mayesville	SC	29104
Miller	Jessie	Mae	Herself	Kingstree	SC	29556
Montgomery	Annie	Jessica	Herself	Lake City	SC	29560
Montgomery	Mary	E.	Herself	Pinewood	SC	29125
Morgan	Doris	Lee	Herself	Sutherland	VA	28885
Morris	Sarah	L.	Herself	Nesmith	SC	29580
Morris	Stephanie	Regina	Herself	Kingstree	SC	29556
Motley	Alisa	Albright	Herself	Prattville	AL	36067
Moye	Eddie	M.	Herself	Montgomery	AL	36107

Last Name	First Name	Middle Name	Representing	City	State	Zip Code
Muldrow	Rectina		Herself	Kingstree	SC	29556
Myers	Christine		Herself	Effingham	SC	29541
Myers	Gracie		Herself	Effingham	SC	29541
Myers	Lakeisha		Herself	Kingstree	SC	29556
Myers	Monique	Michell	Herself	Kingstree	SC	29556
Nesmith	Priscilla	Ann	Herself	Kingstree	SC	29556
Nesmith	Rosa	Lee	Herself	Bronx	NY	10472
Nesmith	Rose	Anna	Herself	Nesmith	SC	29580
Nesmith	Sandra	J.	Herself	Bronx	NY	10459
Newkirk	Angelina		Herself	Harrells	NC	28444
Newton	Annie	Pearl	Herself	Willard	NC	28478
Page	Susie	Miller	Herself	Clinton	MD	20735
Patterson	Carolyn	McQueen	Herself	Fayetteville	NC	28814
Pearson	Mary	E.	Herself	Manning	SC	29102
Pendergrass	Lerlean	W.	Herself	Kingstree	SC	29556
Perkins	Dorothy	Jean	Herself	Catherine	AL	36728
Peterson	Lola	M.	Herself	Montgomery	AL	36105
Pettway	Jean		Phyllis Matthews	Coy	AL	36435
Pettway	Jean		Herself	Coy	AL	36435
Philyan	Callie		Herself	Hope Hull	AL	36043
Pinckney	Keytara	Alea	Herself	Lake City	SC	29560
Pinckney	NeKeysa	Je'Nean	Herself	Gaston	SC	29053
Pinckney	Shirley	Fleming	Herself	Lake City	SC	29560
Player	Loreda	Goldman	Betty S. Goldman	Cullen	VA	23934
Pollard	Linda	Louise	Herself	Mound Bayou	MS	38762
Preyear	Fredrek	Jemison	Edna Mae Greene	Stone Mountain	GA	30083
Pryor	Cynthia	Marie	Fannie P. Marshall	Mobile	AL	36605
Reese	Denise		Della Robinson	Prattville	AL	36067
Reese+A83	Denise		Herself	Prattville	AL	36067
Reeves	Anna	L.	Herself	Oklahoma City	OK	73139
Robinson	Donella	Denise	Herself	Mound Bayou	MS	38762
Robinson	Erma	Harris	Herself	Winstonville	MS	38781
Robinson	Olivia	M.	Herself	Lewisville	AR	71845

Last Name	First Name	Middle Name	Representing	City	State	Zip Code
Rollins	Carolyn		Herself	Montgomery	AL	36116
Rose	Mary	M.	Herself	Lewisville	AK	71845
Rothchild	Thomas		Emma J. Rothchild	Coy	AL	36435
Samuels	Nadine	M.	Herself	Nesmith	SC	29580
Sanders	Adlenia	V.	Herself	Mound Bayou	MS	38762
Sanders	Angela	D.	Herself	Prattville	AL	36067
Savage	Jimmy		Dorothy Savage	Selma	AL	36701
Scott	Dawnette	K.	Herself	Prattville	AL	30367
Scott	Dorothy	Mae	Herself	Prattville	AL	36067
Scott	Emma	Carol	Herself	Kingstree	SC	29556
Scott	Geraldine	P.	Herself	Kingstree	SC	29556
Shaw	Loretta		Herself	Kingstree	SC	29556
Shaw	Mary	A.	Shirley Bluetooth	Nesmith	SC	29580
Shaw	Virnetta		Herself	Turbeville	SC	29162
Singletery	Janel	Latonya	Herself	Florence	SC	29501
Singletery	Jannie	Mae	Herself	Hemingway	SC	29554
Singletery	Marilyn	S.	Herself	Lake City	SC	29560
Smiley	Ida	M.	Herself	Selma	AL	36703
Smith	Geraldine	M.	Herself	Montgomery	AL	36108
Smith	Julia	Estelle	Herself	Bruington	VA	23023
Smith	Phyllis	S.	Mattie Pearl Sanders Vanarsdale	Renova	MS	38732
Smith	Phyllis	S.	Herself	Renova	MS	38732
Snow	Gloria	Ann	Herself	Florence	SC	29505
Snow	Karen	Eva	Herself	Lake City	SC	29560
Snow	Kathy	Eve	Herself	Lake City	SC	29560
Spears	Linda	Moye	Herself	Coy	AL	36435
Spring	Christina	M.	Herself	Lake City	SC	29560
Starks	Patricia	A.	Herself	Uniontown	AL	36789
Stoner	Jennie	L.	Herself	Lexa	AR	72355
Stoudemire	Alfreda		Gussie Stonemire	Prattville	AL	36067
Stoudemire	Alfreda		Herself	Prattville	AL	36067
Strickland	Eva	Mae	Herself	Willard	NC	28478
Swinton	Georgia	McBride	Herself	Andrews	SC	29510

Last Name	First Name	Middle Name	Representing	City	State	Zip Code
Taylor	Audrey	C.	Herself	Montgomery	AL	36104
Thomas	Daisey	Hall	Herself	Locust Grove	GA	30248
Thomas	Dorothy	Jeanette	Herself	Prattville	AL	36067
Thomas	Gertrude		Herself	Prattville	AL	36067
Thomas	Lizzie	Fulmore	Bertha A. Thomas	Effingham	SC	29541
Thomas	Patricia		Herself	Prattville	AL	36067
Thompson	Alhessie	Augusta	Herself	Little Rock	AR	72206
Thompson	Flora	B.	Herself	Sumter	SC	29151
Thompson	Margie	Denise	Herself	Derwood	MD	20855
Timmons	Bertha	M.	Herself	Sumter	SC	29154
Tirey	Anne	Grant	Herself	Isola	MS	38754
Tirey	Virginia	E.	Herself	Isola	MS	38754
Tisdale	Lula	Jane	Herself	Kingstree	SC	29556
Tobias	Evelyn	Doris	Herself	Liberty	MS	39645
Turner	Katie	Gray	Herself	Helena	AL	35080
Wallace	Betty	S.	Herself	Kingstree	SC	29556
Wallace	Winnie	Ruth	Herself	Kingstree	SC	29556
Ware	Mildred		Herself	Stockdale	TX	78160
Warren	Eleanor	Williams	Ethel McKellar Williams Mahorn	Montgomery	AL	36117
Washington	Willie	Marie	Herself	Kingstree	SC	29556
Wells	Angela		Marie A. Albright	Prattville	AL	36067
Wells	Angela	Boutman	Herself	Prattville	AL	36067
Westry	Linda	G.	Herself	Coy	AL	36435
Westry	Pamela	M.	Herself	Coy	AL	36435
Westry	Pamela	M.	Viola Spencer	Coy	AL	36435
Williams	Betty	Jean	True Miller Cooper	Montgomery	AL	36116
Williams	Cheneath		Herself	Beaumont	TX	77708
Williams	Darlene	Dandridge	Lila Ann Dandridge	Pine Hill	AL	36769
Williams	Emma	M.	Herself	Petersburg	VA	23803
Wilson	Dollie	Culver	Herself	Notasulga	AL	36866
Wilson	Erika	Denise	Herself	Lake City	SC	29560
Winfrey	Esmá	Joyace	Herself	Drew	MS	38737
Witherspoon	Kathleen		Herself	Kingstree	SC	29556

Last Name	First Name	Middle Name	Representing	City	State	Zip Code
Worsham	Barbara	J.	Herself	Sheffield	AL	35660
Worthy	Elnora		Herself	Montgomery	AL	36110
Wright	Ingrid	E.N.	Herself	Raleigh	NC	27617
Wright	Lillie	Mae	Herself	Kingstree	SC	29556
Wright	Sulie	Ann	Herself	Kingstree	SC	29556
Yates	Sharon	Bonner	Herself	Dinwiddie	VA	23841
Young	Elouise		Herself	Montgomery	AL	36105

Pursuant to Local Rule 7(m), Alexander Pires telephoned Michael Sitcov, co-counsel for defendant, on March 23, 2011, to confer concerning this motion. Mr. Pires left Mr. Sitcov a message asking for his consent. At the time of filing of this motion, a response has not been received.

Also, Pursuant to Local Rule 7(m), Mr. Pires telephoned Mark Fleischaker, co-counsel for plaintiffs, on March 23, 2011, to confer concerning this motion. Mr. Pires left Mr. Fleischaker a message asking for his consent. At the time of filing of this motion, a response has not been received.

A memorandum in support of this motion, a proposed Order, and intervenor-plaintiffs' proposed Complaint are filed herewith.

Respectfully submitted,

/s/Benjamin G. Chew  
 Benjamin G. Chew  
 Anurag Varma #471615  
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 2550 M Street, N.W.  
 Washington, DC 20037  
 Phone: (202) 457-6000  
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Alexander J. Pires #185009  
 Diane Cooley  
 PIRES COOLEY  
 4401 Q Street, N.W.

Washington, DC 20007  
Phone: (202) 333-1134

*Counsel for Intervenors*

Dated March 23, 2011

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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

**CORRECTED<sup>1</sup> MEMORANDUM OF POINTS AND AUTHORITIES**  
**IN SUPPORT OF MOTION FOR LEAVE TO INTERVENE**

Movants, by and through their undersigned counsel, respectfully submit their memorandum in support of their motion to intervene pursuant to Rule 24 of the Federal Rules of Civil Procedure.

**INTRODUCTION**

This case was filed in 2000 on behalf of plaintiffs and “all others similarly situated” alleging that Defendant willfully discriminated against women farmers and ranchers when processing applications for farm credit and farm programs. Dkt. 1. United States Department of Agriculture (“USDA”) admits and the data supports that there were widespread disparities in the awarding of loans and the provision of loan services to women. Movants are the real women behind those numbers. They are the women that the *Love* case was originally intended to protect and to avenge. With the denial of class certification these women must now individually intervene in this case if they hope to preserve their rights and gain the protection of this Court. Although the USDA has proposed an administrative process, these women fear, as this Court stated, “that the process is flawed...and they’re not going to get a fair shake.” Dkt. 121 at 7:5-9. When given the choice of

<sup>1</sup> The Memorandum of Points and Authorities that was filed on March 23, 2011 contained a certain factual misstatement. This corrected filing simply removes that statement and does not add any new facts or arguments.

trusting an agency that has proven itself untrustworthy or taking their case to a Court that has proven itself capable of fairly adjudicating these matters.<sup>2</sup> These women have chosen this Court unanimously. They meet the burdens imposed upon them by Rule 24 and deserve to have their claims heard here.

### **RELEVANT BACKGROUND**

The relationship between the USDA and the farmers to whom it provides loans is not a typical debtor/creditor relationship.<sup>3</sup> Instead, Congress gave USDA a special mission: “to foster and encourage the family farm system of agriculture in this country.” 7 U.S.C. § 2266(a). Pursuant to that mission, the Farmers Home Administration (“FmHA”), succeeded by the Farm Service Agency (“FSA”), is the lender of last resort for farmers who cannot obtain credit elsewhere.<sup>4</sup> To fulfill this role, FSA is authorized to make at least three types of loans to farmers: (1) farm ownership loans to enable farmers to acquire, enlarge or improve farms; (2) operating loans for annual crop production expenses and the purchase of equipment; and (3) emergency loans to alleviate the effects of losses suffered in disasters and emergencies. *See* 7 C.F.R. §§ 1941.2, 1943.2, 1945.2.

The farm loan program extends well beyond the initial grant of a loan. It is “a form of social welfare legislation”<sup>5</sup> designed to create a long-term relationship between the farmer and USDA with the goal of graduating the farmer to commercial credit. *See also, Id.* § 1951.902. To this end, FSA

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<sup>2</sup> *See Pigford v. Glickman*, 1:97-CV-1978 (final approval of settlement in 1999); *Keepseagle v. Vilsack*, 1:00-CV-2502 (preliminary approval granted and awaiting hearing on final approval).

<sup>3</sup> The USDA’s special relationship with farmers was previously addressed in *Keepseagle*. *See, e.g.*, Plaintiffs’ Dec. 4, 2009, Memorandum of Points and Authorities in Support of Motion for Certification of Damages Claims under Federal Rule of Civil Procedure 23(b)(3), p. 3-5. Ex. B.

<sup>4</sup> *See, e.g., Moseanko v. Yuetter*, 944 F.2d 418, 421 (8th Cir. 1991); *United States v. Kimbell Foods, Inc.*, 440 U.S. 715, 723 (1979).

<sup>5</sup> *Curry v. Block*, 541 F.Supp. 506, 511 (S.D. Ga. 1982), *aff’d*, 738 F.2d 1556 (11th Cir. 1984) (noting “the object of the legislation is to aid the ‘underprivileged’ farmer, and is therefore a form of social welfare legislation”); *see also Coleman v. Block*, 562 F.Supp. 1353, 1364 (D.N.D. 1983) (“participation in FmHA programs is in large part a form of social welfare”).

employs loan servicing, which comprises an array of means offered to farmers to renegotiate the terms of their loans. Loan servicing includes consolidation of multiple loans into a single loan with more favorable terms, reduction of rates at which the monies are loaned, forgiving or settling some or all of the outstanding debt, and writing down the outstanding debt to levels that are more affordable. *Id.* §1951.906. Loan servicing is a “primary objective” of FSA and “[s]upervision and servicing are continuing processes that begin the day a farmer comes into the office.” *Id.* § 1951.902. A farmer who receives a loan acquires not only the actual capital, but the right to apply for loan servicing if she has difficulty repaying debt in a given time period because of the vagaries and unexpected hardships of farming, such as animal disease or poor weather conditions.<sup>6</sup> *Id.* § 1951.901 *et seq.* Moreover, federal regulators require FSA to send notice of loan servicing programs to all borrowers: (1) who are more than 90 days delinquent; (2) who submit written requests for loan servicing information; or (3) who apply for loan servicing. *Id.* §§ 1981d, 1951.907(c). FSA also must send loan servicing notices before taking collection action against a borrower. *Id.* § 1951.907(c).

Unfortunately, movants’ relationships with USDA were not like the one described above. Instead movants had to contend with USDA’s pattern and practice of denying women equal access to credit in its farm loan programs. That denial deprived these women farmers and ranchers of privileges afforded to other farmers and ranchers, in violation of the Equal Credit Opportunity Act (“ECOA”), and caused them substantial economic losses. (Ex. A at ¶¶ 34-36). Typically, this discrimination took the form of outright denials of both farm loans and loan servicing,<sup>7</sup> and a

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<sup>6</sup> The right to seek and obtain loan servicing is so fundamental that courts have repeatedly recognized the borrower’s right to be notified of and to apply for loan servicing. *See Curry v. Block*, 541 F. Supp. at 515-25 (finding that 7 U.S.C. § 1981a, which created a right of deferral, imposed a mandatory duty on USDA to promulgate and enforce regulations providing for notice, an opportunity to be heard, and criteria for servicing); *Matzkee v. Block*, 542 F.Supp. 1107, 1114-15 (D. Kan. 1982) (same); *Allison v. Block*, 723 F.2d 631, 634 (8th Cir. 1983) (finding that the FmHA was required to provide borrowers with notice of § 1981 relief, including deferrals and other alternatives to acceleration).

<sup>7</sup> Hundreds of movants allege that they were denied loans outright.

widespread failure to provide women with the technical and other forms of assistance<sup>8</sup> that are necessary for farmers to prepare farm loan program applications.

Movants come from different parts of the country, but they each allege that they were discriminated against by USDA when they applied or tried to apply for a farm loan or farm loan servicing. Movants complained to USDA, but, as this Court is aware, the Office of Civil Rights was essentially inoperative from 1983 to 1997. The fact that their complaints fell on deaf ears only added insult to injury. The similarities between these women's experiences are no mere coincidence. USDA, through its use of overly subjective criteria for loan making and servicing, created a system that allowed gender discrimination to flourish in the local offices. More importantly, by dismantling their Office of Civil Rights, USDA made discriminatory conduct impossible to catch and to correct.

This lawsuit was supposed to provide relief for those past wrongs and protect the rights of these women farmers. It offered them the possibility of a fair resolution of their grievances. However, after the recent Court of Appeals decision affirming the denial of class certification, USDA formally announced plans to create an administrative process that would rival this lawsuit. In light of USDA's history of turning a blind eye to abuses, movants are reluctant to trust adjudication of their rights to the agency that discriminated against them for years. As such, movants file this present motion to intervene, seeking this Court's protection and oversight.

#### **ARGUMENT**

This Court has the authority and should grant movants' intervention as of right or, in the alternative, permissive intervention because movants' claims are inextricably intertwined with plaintiffs' claims. Intervention as of right is guaranteed to those parties whose rights are affected by the pending litigation, as movants' right to redress for USDA's mistreatment of women farmers and

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<sup>8</sup> Hundreds of movants allege that they were denied technical assistance.

ranchers would be affected by this lawsuit. Similarly, permissive intervention is encouraged where there are common questions of law and fact that would be better addressed in a single suit than in several separate suits, like USDA's pattern and practice of discrimination.

**I. Movants Are Entitled to Intervention As of Right Pursuant to Rule 24(a).**

Movants' claims mirror those of the existing plaintiffs and asserting them in a separate suit would be a hardship and a waste of the Court's resources. Further, as this Court recognized, its authority is limited to the women before it and existing plaintiffs cannot speak for putative class members. Under these circumstances, Rule 24 gives this Court the authority to join movants as Plaintiffs in this case.

Under Federal Rule 24(a), on timely motion, the Court must permit anyone to intervene as a matter of right who:

claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

Fed. R. Civ. P. 24(a)(2). In this Circuit, the Courts use a four factor test to determine if applicants have met the standard for intervention as of right: (1) the timeliness of the motion; (2) whether the applicant claims an interest relating to the property or transaction which is the subject of the action; (3) whether the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest; and (4) whether the applicant's interest is adequately represented by existing parties. *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 731 (D.C. Cir. 2003). The D.C. Circuit has further held that applicants must satisfy a fifth requirement, Article III standing, to prevail on a motion to intervene as of right. *Fund for Animals*, 322 F.3d at 731-32.

A. Movants Possess the Same Basis for Standing as Existing Plaintiffs.

Under D.C. Circuit precedent, because intervenors seek to participate on equal footing with

existing parties, they must satisfy the standing requirements imposed on those parties. *See, e.g., Fund for Animals*, 322 F.3d at 731-32; *Akiachak Native Comm. v. Dep't of Interior*, 584 F. Supp. 2d 1, 5 (D.D.C. 2008); *County of San Miguel v. MacDonald*, 244 F.R.D. 36, 43 (D.D.C. 2007). Article III standing requires (1) injury-in-fact, (2) causation, and (3) redressability. *County of San Miguel v. MacDonald*, 244 F.R.D. at 48. “[T]he Court must address the prospective intervenors’ standing in this action before considering the factors for evaluating their intervention as of right” because it is a threshold jurisdictional question. *Id.* at 43.

In this case, existing plaintiffs’ claims and movants’ claims parallel each other in several respects. Like existing plaintiffs, movants suffered economic injury caused by USDA’s pattern and practice of gender discrimination in its lending and loan servicing programs. Third Amended Complaint at ¶¶ 6, 69 *compare* Proposed Complaint, ¶¶ 28-30,36 (Ex. A). Plaintiffs and movants also seek the same remedy from the Court—injunctive and monetary relief. *Compare* Third Amended Complaint “prayer for relief” with Ex. A “prayer for relief”. Therefore, movants have precisely the same Article III standing to maintain a lawsuit as existing plaintiffs and are entitled to participate in this litigation on equal footing.

#### B. Motion to Intervene is Timely.

The first of the four prerequisites for a motion to intervene as of right, timeliness, is “determine[d] by all of the circumstances of a case and is determined by the court in the exercise of its sound discretion.” *Me-Wuk Indian Comm. of the Wilton v. Kempthorne*, 246 F.R.D. 315, 319 (D.D.C. 2007). The relevant circumstances that the Court must weigh include: time elapsed since the inception of the suit, the purpose for which intervention is sought, the need for intervention as a means of preserving applicants’ rights, and the probability of prejudice to those already in the case. *Glamis Imperial Corp. v. Dep't of Interior*, 01-CV-530, 2001 WL 1704305 at \*3 (D.D.C. Nov. 13, 2001).

In this case, the time between inception and this motion for intervention should not render

the motion untimely. *See Hartman v. Duffy*, 158 F.R.D. 525, 531-32 (D.D.C. 1995) (finding motion to intervene timely even though it was filed sixteen years after the case began). Although the lawsuit was first filed in 2000, movants could not have intervened prior to the Court's final denial of class certification in 2007. *See, e.g., Coca-Cola Bottling Co. of Elizabethtown, Inc. v. Coca-Cola Co.*, 98 F.R.D. 254, 281 (D.Del. 1983) (denying intervention as of right because class representative adequately represented unnamed class members' interests).

A motion for intervention is timely so long as applicants move to intervene as soon as it becomes clear "that the interests of the unnamed class member would no longer be protected by the name class representatives." *Hartman*, 158 F.R.D. at 531 (citations omitted). This Court's recent rulings have made it clear that existing plaintiffs can no longer make arguments on behalf of the class because the Court lacks the authority under Article III to protect "potential plaintiffs." Dkt. 121, Transcript of Dec. 3, 2010 Status Conference, 3:2-9. Moreover, the statements of the Court during the December 3, 2010 proceeding made it clear that the only way for potential class members to secure their rights is for them to file suit or intervene. *See, e.g., Dkt. 121 at 7:5-9* ("Once they become parties to they have two options it seems to me; they can participate in the claims process. If they think the claims process is flawed and they're not going to get a fair shake they don't have to, then they pursue their relief in this court.").

The final consideration for timeliness is the danger of prejudice to those parties already in the case. The only issues developed and briefed in the case relate to class certification. Otherwise, this case has been stayed since 2006. Dkts. 79, 96, 102, 111. Thus, allowing movants to intervene at this stage is similar to permitting intervention after the filing of a complaint and answer but before discovery in a non-class action case. Because neither plaintiffs nor defendants would be prejudiced under these circumstances, this Court should grant this motion to intervene.

C. Movants' Article III Standing is Sufficient for This Court to Find that They Have a Legally Protectable Interest in the Action.

This Court has held that “[a] party need not show anything more than that it has standing to sue to in order to demonstrate the existence of a legally protected interest for purposes of Rule 24(a).” *Fund for Animals*, 322 F.2d at 735; *County of San Miguel*, 244 F.R.D. at 46 (quoting *Mova Pharm. Corp. v. Sbalala*, 140 F.3d 1060, 1076 (D.C. Cir. 1998)). In *County of San Miguel*, the Court explained that an intervenor’s interest is obvious when he asserts a claim to property that is the subject matter of the suit. 244 F.R.D. at 46 (quoting *Foster v. Gueory*, 655 F.2d 1319, 1324 (D.C. Cir. 1981)). In the present case, movants claim an interest related to the transactions that are the subject matter of the action. Specifically, movants’ claims share the existing plaintiffs’ interest in being free from gender discrimination in lending and loan services transactions with the USDA. Third Amended Complaint para. 69 compare Ex. A at ¶ 33.

Accordingly, as in *Cook v. Boorstin*, movants satisfy the second prerequisite for intervention as of right. 763 F.2d 1462, 1466 (D.C. Cir. 1985). In that discrimination case, the Court of Appeals reasoned that intervenor-appellants were entitled to intervention as of right after class certification was denied because intervenors “suffered the injury from the same or very similar wrongful acts as those complained of by the original plaintiffs.” *Id.* The Court of Appeals further held that “[w]hile the individual acts of discrimination may differ, they assert their claims as a result of the same ‘significantly protectable interest.’” *Id.*; see also *Hartman*, 158 F.R.D. at 534 (holding that “the similarity between the factual and legal claims of the Petitioners and those of the Plaintiffs amply satisfies the interest requirement.”).

D. The Disposition of this Matter Will Impair Movants’ Ability to Protect Their Rights

This Court has held that an intervenor’s rights would be impaired if her ability to pursue a future lawsuit would be negatively impacted by resolution of the action. *Hartman*, 158 F.R.D. at 534 (finding that potential negative *stare decisis* effect was sufficient impairment to permit intervention as a matter of right); *Me-Wuk Indian Comm.*, 246 F.R.D. at 319 (same); *Fund for Animals*, 322 F.3d at 735

(holding that even if petitioner could pursue subsequent litigation to overturn a possible negative outcome, the difficulty and burden of reestablishing the status quo in the subsequent litigation was sufficient to find impairment of interest for the purposes of a motion to intervene). In this case, movants' ability to pursue a lawsuit if they are denied intervention in this case is questionable because of the applicable statute of limitations. Should this suit be resolved before movants were able to file, this Court's tolling of the statute of limitations for "putative class members" would no longer be valid. In addition to the statute of limitations concerns, movants would have to bear the difficult burden of reestablishing the facts already found in this case and re-litigating the class certification issue. Therefore under D.C. Circuit precedent, movants' right would be practically impaired within the meaning of Rule 24(a)(2).

E. Movants Are Not Adequately Represented by Existing Plaintiffs.

The final prerequisite for intervention as of right is a showing that existing parties do not adequately represent movant's interest. "[T]his requirement of the Rule is satisfied if the applicant shows that the representation of his interest may be inadequate; and the burden of making that showing should be treated as minimal." *Me-Wuk Indian Comm.*, 246 F.R.D. at 320. Here, there is no question that existing plaintiffs cannot adequately represent movants' interests. The effect of this Court's denial of class certification is that existing plaintiffs may only represent their individual interests. The Court's recent comments regarding its inability "to protect individuals who are not parties to the case" only confirm that movants *must* intervene if they wish to protect their interests. Dkt. 121 at 5:6-8. Moreover, some or all of the existing plaintiffs may elect to proceed under the governments' administrative settlement proposal, thereby losing any representative value that their claims may have.

**II. Alternatively, Movants Should be Granted Permissive Intervention Pursuant to Rule 24(b).**

In the alternative, the Court should grant permissive intervention to movants pursuant to

Rule 24(b)<sup>9</sup> because adjudication of movants' claims and plaintiffs' claims require conclusive resolution of many shared questions of fact and law. To ease the burden on the courts, these matters should be resolved in one suit instead of several separate actions. Further, because the case is still in the early stages of development, the addition of movants to the case will not unduly delay the proceedings nor prejudice the original parties. Finally, as discussed in detail in Section I.B., *supra*, this motion is timely.

A. There Are Several Common Questions of Law and Fact Because of the Similarities Between Movants' Claims and Plaintiffs' Claims

Although Rule 24(b) only requires one common question of law or fact, existing plaintiffs have already identified at least four common questions of law and fact:

- (1) whether and when USDA's officials discriminated against women farmers and ranchers in failing to process discrimination complaints;
- (2) whether and when USDA's officials discriminated against women farmers and ranchers in denying loans and loan servicing;
- (3) whether USDA's officials failed to provide women farmers and ranchers equal access to loans and loan servicing; and
- (4) whether USDA's actions violated women farmers and ranchers rights under the Equal Credit Opportunity Act.

Dkt. 78 at para. 70. Beyond those discrete issues, both movants' and plaintiffs' agree that the two main issues in these cases are (1) USDA's institutional and systematic conduct in permitting county supervisors to grant or deny loan requests or loan servicing on a wholly subjective basis and (2) that as a result of this subjectivity and lack of oversight, a national pattern and practice of discrimination against women emerged and was perpetuated in violation of the law. In cases like this one, where intervenors' claims will raise many of the same issues as one of the original parties, permissive intervention is proper. *See, e.g., Me-Wuk Indian Comm.*, 246 F.R.D. at 320 (finding that where the

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<sup>9</sup> Rule 24(b)(2) provides that "[o]n timely motion the court may permit anyone to intervene who . . . has a claim or defense that shares with the main action a common question of law or fact."

facts necessary to support intervenors' claims were "essentially the same facts" as those necessary to establish an original parties' claims permissive intervention was appropriate and furthered the aims of judicial efficiency). Once these common issues of causation are proven, the Court need only decide the issue of individual damages.

B. In This Early Stage of Litigation, Additional Parties Will Neither Unduly Delay the Proceedings or Prejudice the Original Parties.

Rather than delaying resolution of the controversy or interfering with the orderly processes of the Court, the inclusion of more plaintiffs may encourage settlement efforts as the Court and defendants will have the opportunity to hear from a greater number of affected women farmers. Also, any fears of delay due to addition of hundreds of plaintiffs are misplaced—this Court has experience managing discrimination cases with large numbers of plaintiffs. In *Pigford v. Glickman* ("Pigford I"), there were 401 plaintiffs from all across the country. 182 F.R.D. 341, 342 (D.D.C. 1998). That case reached a speedy conclusion when the Court approved final settlement within in two years.<sup>10</sup>

This case is a clear example of circumstances where "any doubt concerning the propriety of allowing intervention should be resolved in favor of the proposed intervenor[ ] because it allows the court to resolve all related disputes in a single action." *Federal Savings and Loan v. Falls Chase Special Taxing District*, 983 F.2d 211, 216 (11th Cir. 1993) (although dealing with intervention as of right the principle is equally applicable to permissive intervention). If movants were denied the right to intervene, they would be forced to file individual claims in this Court or federal district courts around the country to seek redress because, for the reasons detailed above, movants do not have confidence that USDA will fairly and efficiently resolve their claims. These separate lawsuits would involve many of the same questions of law and fact, forcing movants (and the defendant) to

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<sup>10</sup> Later delays and the creation of *Pigford II*, were not attributable to the number of plaintiffs, rather they were caused by notice issues and complaints regarding the claims process.

duplicate this Court's efforts. Judicial economy favors resolving all of these claims in one case.

**CONCLUSION**

Accordingly, movants request that their motion to intervene be granted, that they be accorded the status of plaintiffs, and that their complaint be accepted for filing herein.

Respectfully submitted,

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