

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

JOE CONTRERAS)	
Post Office Box 912)	
Childress, TX 79201)	
and)	
)	
PAUL CONTRERAS, as personal)	
representative of)	
LOUIS CONTRERAS, deceased,)	
Post Office Box 165)	
Bartlesville, OK 74005)	
)	NO. 1:00CV02445
Plaintiffs,)	
)	Judge: Reggie B. Walton
v.)	
TOM VILSACK, Secretary)	
THE UNITED STATES)	
DEPARTMENT OF AGRICULTURE)	
14 th and Independence Avenue, S.W.)	
Washington, D.C. 20250)	
)	
Defendant.)	
)	
)	
)	
)	

AMENDED COMPLAINT

Plaintiffs, Joe Contreras (“Joe”), and the estate of Louis Contreras (deceased), collectively “the Contrerases” or “Plaintiffs,” complain of Defendant, Tom Vilsack, the Secretary of the United States Department of Agriculture (“USDA”), as follows:

NATURE OF THE CASE

1. Louis Contreras, a third-generation Mexican-American farmer living in Texas, raised his children, including his sons Joe and Alejandro (“Alex”), to carry on the family’s farming legacy. Together, they dreamed of developing a family-owned cattle ranch that they could pass on to future generations. In the 1970s, that dream appeared to be within their grasp.

The USDA, via agencies such as the Agricultural Stabilization and Conservation Service (“ASCS”) and the Farmers Home Administration (“FmHA”), now the Farm Service Agency (“FSA”), offered loans to each of the Contrerases to purchase large tracts of undeveloped land on which they could raise cattle and grow cotton crops. Over the years, however, the local USDA officials entrusted with administering the loans to the Contrerases provided little oversight or expertise in the way of financial management. Then, in the mid-1980s, the USDA abruptly withdrew what little loan servicing the Contrerases had been receiving, and soon afterwards foreclosed upon their properties. Adding to their injury and humiliation, the Contrerases watched as white farmers in similarly dire financial circumstances continued to receive financial assistance from the USDA. Worse still, the Contrerases subsequently learned that local, white USDA officials had purchased parts of the Contrerases’ former properties. When the Contrerases complained to the USDA about its misconduct, the government largely ignored them and, in some instances, lied to the family and its representatives. Despite the government’s blatant discrimination, the Contrerases have never stopped fighting to recover their land.

2. The Contrerases were part of a generation of minority and women farmers swept up in an apathetic, neglectful, and biased farm loan management system. As far back as the early 1970s, the Secretary of Agriculture formed a “Young Executives Committee” which appeared to work deliberately to force minority and socially disadvantaged farmers off their land through discriminatory loan practices. A 1982 Civil Rights Commission report stated that the FmHA “may be involved in the very kind of racial discrimination it should be seeking to correct.” In 1996, the situation became so shameful that the USDA suspended government farm foreclosures nationwide and established a Civil Rights Action Team. This Team embarked on listening sessions throughout the country. USDA officials heard from disenfranchised minority and

women farmers about the problems those farmers routinely encountered when trying to access USDA programs and resources as they struggled to operate their farms. The Civil Rights Action Team summarized its findings in a 1997 report (the “CRAT Report”). *See* Ex. A.

3. The CRAT Report confirmed that “civil rights at USDA ha[d] been in a persistent state of chaos because of numerous reorganizations since the 1980s. According to a June 1996 report by the U.S. Commission on Civil Rights, during the early and mid-1980s USDA leaders had effectively ‘dismantled’ USDA’s civil rights apparatus.” *Id.* at 47.

4. In dismantling the agency’s civil rights apparatus, the USDA denied women and minority farmers any meaningful process for farmers to challenge USDA decisions they believed to be discriminatory. *See id.* at 24 (“The CRAT was unable to gather historical data on program discrimination complaints at USDA because record keeping on these matters has been virtually nonexistent.”). The USDA misled farmers and the public by claiming to have a functioning process, when, in reality, the process was, at various times, dysfunctional, non-existent or a sham. *Id.* (“Complaints filed with the agencies [were] not necessarily reported to USDA’s Civil Rights office.”).

5. According to the CRAT Report, the absence of meaningful process to object to discrimination was exacerbated by the USDA’s county committee process, which suffered from a severe “lack of diversity.” *Id.* at 18. “In 1994, 94 percent of all county committees had no female or minority representation” and minorities “held only 2.9 percent of county committee seats.” *Id.* at 20.

6. The USDA admitted that it “[had] not effectively protected, supported, or promoted small and limited-resource farmers and ranchers and other underserved customers. Not only have they often not been served at all, but in many cases the service has appeared to be

detrimental to the survival of minority and limited-resource farmers.” Ex. A at 30. The USDA also admitted that “[m]inority farmers have lost significant amounts of land and potential farm income as a result of discrimination by FSA programs and the programs of its predecessor agencies, ASCS and FmHA.” *Id.*

7. The CRAT Report concluded that the “USDA does not place a priority on serving the needs of small and limited-resource farmers and has not supported any coordinated effort to address this problem.” *Id.* at 26. The Report noted that “[m]inority and limited-resource farmers and ranchers reported that they are not receiving the technical assistance they require.” *Id.* For example, “[t]hey said they are not receiving basic information about programs for which they might be eligible. They are not being helped to complete complicated application forms. They are not being helped to understand and meet eligibility requirements for programs.” *Id.* And “[w]hen they do receive loans or other program benefits, they are not being helped to use those benefits most effectively to improve their operations.” *Id.*

8. For the Contrerases, the CRAT Report was not merely a bureaucratic *mea culpa*; it was the story of their lives. Their farming careers had been taken from them at the whim of a “huge decentralized bureaucracy,” *id.* at 2, that for decades rooted enormous power in the hands of individual local county supervisors who were predominantly white and male. These local officials had “the power ‘to send [small farmers] up the road to fortune, or down the road to foreclosure,’ . . . with impunity.” *Id.* at 7.

9. Unfortunately for the Contrerases, the local county official who oversaw the management of their USDA farm loans was a corrupt employee named Dale Burris, who, upon information and belief, was appointed to his position despite having little personal farming experience. Upon information and belief, there were no Hispanic officials in any local FmHA

office in the North Texas region where the Contrerases were farming in the mid-1980s. As a result, there was no one to whom the Contrerases felt they could turn when, in 1986, Burris and the USDA abandoned them, sending them down the road to foreclosure and destroying their lives. Meanwhile, the USDA treated similarly-situated white farmers more favorably.

10. The Contrerases were not alone. The CRAT Report's stunning admissions led to a number of class action lawsuits filed against the USDA in the late 1990s, including actions filed on behalf of African American farmers, Native American farmers, women farmers, and Hispanic farmers.¹ These class actions were enabled in part by the passage of the 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), which extended the statute of limitations for civil actions filed by minority farmers against the USDA related to loan-servicing discrimination that occurred over a certain period of time and was complained of prior to July 1, 1997. *See* 7 U.S.C. § 2279 (note addressing "waiver of statute of limitations").

11. As recently as 2008, the Government Accountability Office ("GAO") released a report on the USDA's Office of the Assistant Secretary for Civil Rights concluding that efforts overseen by the office were marked by "significant deficiencies." U.S. Gov't Accountability Office, Rep. No. GAO-09-62, U.S. Department of Agriculture: Recommendations and Options to Address Management Deficiencies in the Office of the Assistant Secretary for Civil Rights 31-32 (2008).

¹ *See Garcia v. Vilsack*, No. 00-02445 (D.D.C.) (Hispanic farmers; this case); *Pigford v. Glickman*, No. 97-1978 (D.D.C.) (*Pigford I*) and *Pigford v. Vilsack*, No. 08-0511 (D.D.C.) (*Pigford II*) (African American farmers); *Keepseagle v. Vilsack*, No. 99-03119 (D.D.C.) (Native American farmers); and *Love v. Vilsack*, No. 00-02502 (D.D.C.) (female farmers).

12. The Contrerases are named plaintiffs in the initial class action brought by the Hispanic farmers (the “*Garcia*” action).²

13. The USDA settled the class actions brought by the African American and Native American farmers for \$2.25 billion (a combined total of two different settlements) and \$760 million, respectively.

14. The USDA did not agree to settle the class actions brought by the Hispanic and women farmers. Instead, it established an alternative dispute resolution process in 2012, known as the “Framework,” for Hispanic and women farmers who suffered discrimination by the USDA from January 1, 1981, to December 31, 1996, and/or October 13, 1998, to October 13, 2000.

JURISDICTION

15. Jurisdiction is founded upon 15 U.S.C. § 1691, 15 U.S.C. § 1691e(a), and 28 U.S.C. § 1331 and 28 U.S.C. § 1343.

VENUE

16. Venue lies in this judicial district pursuant to 28 U.S.C. § 1391(b) and (e).

PARTIES

17. Plaintiffs are farmers of Hispanic descent (and U.S. citizens) who were subjected to discrimination by the USDA in its farm benefit programs operated by its former agency, the FmHA, and the FmHA’s successor, the FSA.

18. Plaintiff Joe Contreras is a U.S. citizen born on April 26, 1944, who resides in Childress, Texas. He is a fourth generation Hispanic farmer who partnered with his brother, Alex, and his father, Louis, in the 1970s and 1980s to grow cotton and raise cattle.

² The Contrerases are the only plaintiffs identified in the caption of the *Garcia* Amended Complaint who remain interested in pursuing their claims of discrimination in the federal district court. The caption of this Amended Complaint has been adjusted accordingly.

19. Plaintiff Louis Contreras was a U.S. citizen born on July 17, 1920. He was a third generation Hispanic farmer who partnered with his sons, Alex and Joe, in the 1970s and 1980s to grow cotton and then raise cattle. Louis passed away on March 10, 2005. Paul Contreras represents the estate of Louis Contreras.

20. Defendant Secretary Tom Vilsack is the head of the USDA, a United States cabinet department responsible for developing and executing federal policy on farming, agriculture, and food. The USDA is headquartered in Washington, D.C.

FACTUAL ALLEGATIONS

FmHA Solicits Louis, Joe and Alex to Incur Loans to Purchase a Massive Amount of Land to Start a Large Cattle Ranch Operation, when FmHA Knew or Should Have Known that the Land Was Not Well Suited for Cattle Farming and that the Contrerases Lacked the Financial Experience to Manage that Amount of Land.

21. In 1971, with the assistance of a loan from the FmHA, Louis purchased 814 acres of land known as Ox Bow Pass in Hall County, in northern Texas near the Oklahoma border. Louis bought Ox Bow Pass with the intention of becoming a successful cotton farmer. Two years later, the local FmHA County Supervisor for Hall County contacted two of Louis's sons, Joe and Alex, and informed them that property adjacent to Ox Bow Pass was available for purchase. He encouraged Joe and Alex to enter into a business partnership with Louis, buy the property, and farm it together. The government official offered to supply the funds through the FmHA to purchase the land.

22. Joe and Alex agreed to the plan and the FmHA provided each with \$81,000 in FmHA loans, for a total of \$162,000. With these funds, Joe purchased 1,430 acres adjacent to Louis's property and Alex purchased 1,247 acres. When combined with Louis's land, the Contrerases ultimately owned 3,491 acres of land in Hall County, Texas in 1973. Their holdings

were more than six times larger than the average farm in the U.S. USDA, *Farms, Land in Farms, and Livestock Operations: 2012 Summary* 8 (Feb. 2013).

23. The Contrerases have always been farmers of modest means. The FmHA knew or should have known that the purchase of that amount of land by a small family of farmers with meager funds and limited managerial experience was impracticable and unsustainable. The FmHA willfully, or at least negligently, created a situation whereby the Contrerases were doomed to fail from the start.

24. FmHA officials told Joe, Alex, and Louis that the amount of land they had purchased lent itself to a promising cattle business. In 1974, the Contrerases purchased a few cattle to start building their business and made other slight improvements to their properties, including adding fencing. At the time, however, their properties did not have a water supply to support cattle. The Contrerases joined the Red River Authority of Texas, which had been established that year to support farmers and ranchers in the area with water for a set monthly fee. Every year afterwards, the Contrerases used their own funds to build another mile or so of pipeline to extend the water supply further onto their properties, thereby greatly increasing its value.

25. In 1976, Alex was severely injured in an automobile accident and could no longer continue farming. In 1977, Louis assumed Alex's obligations with respect to Alex's FmHA loans and took over management of Alex's farmland.

FmHA's Bureaucratic Error Puts the Agency on Notice of the Nature of the Contrerases' Farming Operation.

26. In the late 1970s, an administrative "mix-up" at the local FmHA agency resulted in Louis and Joe receiving a substantial amount of excess financing to which, unbeknownst to them, they were not entitled. These loans, which totaled approximately \$90,000, were more

than was necessary to sustain what the agency admitted was “a simple operation between a father and son who work together and at the end of the year pay their debt and split the proceeds between them, if there is any.” Even after resolving this mishap, however, the FmHA failed to adjust its financial oversight of the Contrerases’ operations in terms of the size of the loans it offered to the Contrerases and the loan servicing it offered to them.

FmHA Fails to Manage the Contrerases’ Loans and Fails to Meet Its Obligations Under the Law to Provide the Contrerases with Loan Management Services.

27. In December 1981, according to internal government documents known as “delinquency reports” (*i.e.*, individualized standard reports summarizing the state of loans provided to a farmer on an annual basis), Joe was delinquent or behind schedule on his FmHA loans (totaling nearly \$225,000) in the amount of approximately \$47,500; Louis was delinquent or behind schedule on his FmHA loans (totaling nearly \$314,500) in the amount of approximately \$37,000. Local FmHA officials blamed the Contrerases’ delinquency on drought and poor cattle prices. The Contrerases never received these delinquency reports and were never informed that the regular annual payments they were making on their USDA farm loans were considered by FmHA to be insufficient. Moreover, government officials never told them to alter their operations or change anything about their farming goals. Instead, year after year, as they had been doing since the early 1970s, the Contrerases submitted their earnings to the FmHA to offset their debts and obtain approval for new financing for the coming year.

28. But in the meantime, according to government records, the Contrerases debts continued to pile up. By the end of 1982 – just one year later – the Contrerases’ delinquency reports indicated that Joe’s delinquency had nearly doubled, and Louis’s had tripled.

29. By 1983, Dale Burris, the local FmHA official to whom the Contrerases reported, had taken no steps to address what the government’s internal documents purported to show – that

the Contrerases financial condition was worsening. Instead, Burris continued to pile more debt on them. On March 31, 1983, Burris filed a loan submission with the FmHA's local District Director on behalf of Louis. On April 4, 1983, the State Office approved the loan, noting that "[t]he basic operation of this ranch is sound but there needs to be more management assistance to the family in financial analysis area and will need more than one visit per year as in the past." In other words, the State Office recognized that while Louis was a good operational farmer, he needed more financial management assistance from FmHA local officials. Unfortunately, no assistance was forthcoming.

30. On January 19, 1984, Burris filled out another delinquency report analysis for Joe and Louis. In just over 2 years, according to the government's calculations, Joe's delinquency had increased by 360%, from \$47,500 to \$171,000; Louis's delinquency had skyrocketed by 675%, from \$37,000 to \$250,000. Yet, even at this point, Burris did not suggest a change of course or indicate to the Contrerases that any adverse action was impending.

31. In December of 1985, Joe and Louis received a letter from Burris asking them to come to his office to discuss financing. Joe and Louis did so and asked if there was anything wrong with their FmHA account. Burris responded that they were in good shape financially. Burris told them to take out loans with First State Bank to cover school and county taxes and medical supplies for the cattle for 1986. Burris told them to prepare for a roundup of the cattle in March. He falsely promised that the FmHA would, as usual, approve their loan application the following March so that the loan from First State Bank could be partially repaid.³

³ Under the FmHA's guidance, the Contrerases regularly procured loans from private banks to bridge them over until the USDA's farm loan program funds were processed and made available.

32. Relying on this promise, on February 5, 1986, Louis and Joe sold 175 head of cattle at an average price of \$310.84, for a total of over \$50,000. They used the money to partially pay down their FmHA loans.

For Discriminatory Reasons, FmHA Abruptly Changes Course, Threatens Adverse Action Against the Contrerases, and Unlawfully Denies Them the Loan Servicing They Requested and To Which They Were Entitled.

33. In February 1986, for the first and only time, the FmHA sent Joe and Louis Notices of Intent to Take Adverse Action, abruptly informing the Contrerases that because of their debt, they were in violation of their obligations to the agency.

34. The Contrerases sent back an acknowledgement of the Notices and each requested the following servicing actions: “Rescheduling,” “Consolidation,” and “Subordination.” Tragically for the Contrerases, FmHA provided none of these options.

35. In March 1986, Joe and Louis visited Burris’s office in Memphis, Texas, to apply for their annual FmHA loans, which only a few months before, Burris had promised they would receive. Joe met with his loan officer, William (Bill) Bailey, and Louis met with Burris. Bailey reviewed Joe’s file and ultimately informed him that he could not provide another loan because he had concluded that Joe’s operations would never work out. Joe went from Bailey’s office to Burris’s office where Louis was meeting with Burris.

36. Burris informed the Contrerases that they could not get new loans from FmHA because they were deeply in debt and did not have enough money to their financial situations.

37. At the time of their meeting with Burris, the Contrerases had been waiting to sell two calf crops until the cattle market improved the following month. Burris told them that they did not possess enough cattle to sell to satisfy their financial obligations. The Contrerases protested, stating that a cattle sale would generate sufficient funds. They invited Burris to take a

head count of their cattle, but he declined to do so, capriciously insisting that they held only about the 600 head of cattle accounted for on his books.

38. Burris was cold and indifferent to their entreaties to help them save their land. He kept shouting, “you’re out” and “I’m shutting you down.” He provided no explanation for the FmHA’s abrupt change of heart regarding the provision of new loans to the Contrerases.

39. The Contrerases asked if they could appeal his decision. Burris falsely responded, “No, you cannot appeal the decision.” The Contrerases did in fact have a right to appeal under FmHA’s own regulations. Burris also told the Contrerases that they could not borrow any more money from any other financial institution, that their cattle were now U.S. government property, and that they should find a good lawyer and declare bankruptcy.

The Contrerases File Complaints of Racial Discrimination with the USDA; the USDA Ignores their Complaints and Their Cattle, Land and Equipment Are Sold and Purchased at Fire-Sale Prices by USDA Officials, Relatives, Friends and/or Insiders.

40. Immediately after their humiliating and devastating meeting with Burris, Joe, Louis and Alex signed a letter to the Secretary of Agriculture dated March 30, 1986, in which one of them wrote on behalf of the family, “I feel our rights were discrimination [sic] against the Contreras family in there [sic] ranch operations. We were told by Memphis, Texas by F.M.H.A. office to write to Washington, D.C. after Bankruptcy [sic].” However inartful the complaint, it served to put the FmHA on contemporaneous notice that the Contrerases were the victims of racial discrimination.

41. On April 7, 1986, before the Contrerases filed for bankruptcy, Burris arrived at their property with a team of fourteen cowboys under his supervision. For the next three days, Burris directed the roundup of the Contrerases’ cattle. Adding insult to injury, he offered to pay Joe, Louis, and Joe’s brothers, Randy and Paul, to help. At the end of the chaotic roundup, in

which 8-10 cows died from the cowboys' careless treatment, Burris counted 815 head of cattle. Burris "paid" the Contrerases with six of their own calves.

42. The USDA sold the Contrerases' 815 head of cattle at prices far below what they were worth and applied the proceeds against their loans. But because Burris had commandeered the Contrerases' cattle and sold them at bargain-basement prices, the proceeds were not nearly sufficient to satisfy their financial obligations. Upon information and belief, if Burris had provided proper oversight of the Contrerases' operations, the Contrerases would have been able to sell their cattle in an organized fashion, at prices much higher than Burris obtained; and the proceeds of such a methodical sale would have markedly improved their financial situation.

43. On May 1, 1986, Joe, Louis and Alex Contreras wrote again to the Secretary of Agriculture:

I feel this party (Contreras family) has been Discrimated [sic] with the F.M.H.A. We are applying [sic] to this matter of U.S.D.A. that we wrote Washington, D.C. to our complaints. The supervisor from Memphis, Texas F.M.H.A. to us to comply [sic] to Washington, D.C. to our complaints. He could no longer help us with this matter. We had no business [sic] and no harassing with this problems. (Dale Burris), F.M.H.A. supervisor said. Leave this letter here in my office, and I will mail this to Washington, D.C., Myself (Dale Burris). As of this Contreras we had not heard anything on this matter since then. In May 1, 1986, two month after this happens we had not heard anything.

44. Around this time, Burris told Louis that he had rented Louis's farming land to one of Louis's neighbors, a white man named Larry Curry who possessed little or no farming experience. Burris instructed Louis to let Mr. Curry work the land. Louis complied, believing that he had no other choice. Mr. Curry farmed the land for only a year or two before giving up.

45. On August 27, 1986, with no response from the FmHA on their discrimination complaints, Louis and Joe were discharged from their debts by a federal bankruptcy court in the Northern District of Texas.

46. Upon information and belief, during this same time period white farmers in the same region were either permitted to continue farming despite being delinquent on their loans or were given large cash settlements after filing for bankruptcy protection, enabling them to rebuild their farming businesses.

47. Louis's property was set for a foreclosure sale by the property's first lienholder, Texas Rural Communities (TRC) on September 2, 1986. On September 3, 1986, Burris wrote that he had attended the sale and that property had been sold to Nell Renfro for \$44,195.00. Burris himself had valued the same property at \$230,000 in the 1984 delinquency report he had filled out and placed in Louis's file. On September 8, 1986, TRC's General Manager wrote to Burris to tell him that it had been discovered that Nell Renfro, a white woman, was the mother-in-law of a TRC board member who had told her about the property. To avoid a conflict of interest charge, TRC quickly regained title to the property.

48. On December 15, 1986, TRC wrote to Burris to inform him that TRC was willing to sell the property to either FmHA or Louis Contreras for \$45,542.25. Upon information and belief, Burris never shared this important information with Louis nor did Burris attempt to help Louis find financing to repurchase his property; nor did Louis receive the information independently of Burris or the FmHA.

49. On October 6, 1987, the rest of Louis's property – including the house in which he lived – was sold by the Federal Land Bank for \$53,000 to a white couple, Bobby Max Ham and his wife, Anne-Marie Ham. Bobby Max Ham was, and still is, on the board of directors of two local banks in the region, the First National Bank in Quitaque, Texas, and Citizens National Bank in Crosbyton, Texas. In fact, Bobby Max Ham and Anne Marie Ham are two of the six

board members of Citizens National Bank, with at least two of the other four members also being relatives of the Hams.

50. On November 27, 1987, the Hams sold a 50% interest in Louis's property for \$26,500 to Jay McKay. McKay was not just another white man – *he was an FmHA County Supervisor for the FmHA office out of Dimmit, Texas*. This conflict of interest was no secret in the community: McKay owned land adjacent to Louis's property and it was well known that he purchased the land for the benefit of his children.

51. In fact, in December 1987, McKay and Mr. Ham visited their newly purchased property, where Louis was still living. McKay personally told Louis that he and Ham had purchased the property.

52. McKay was no stranger to the Contrerases. They knew he was an FmHA official and had seen McKay and Burris together on several occasions. When the Contrerases realized that their property had been sold to McKay, they began to comprehend that what was happening to them was no accident – it was government sanctioned discrimination.

USDA Officials Intentionally and Repeatedly Thwart the Contrerases' Efforts to Recover Their Property, Misrepresenting the Record and Leaving the Contrerases Destitute.

53. In 1988, the Contrerases finally found people willing to advocate for them and help them salvage their operations – Richard and Belton Finney (a father and son). In February 1988, Richard Finney and Joe Contreras met with an FmHA official in its Vernon, Texas office to discuss a proposal to lease Joe's property for a one to three year period. The FmHA official in Vernon told them that he would look into it but that the ultimate decision maker would be the Hall County supervisor, Dale Burris.

54. Knowing full well that Burriss would never help the Contrerases, the Finneys and Contrerases devised what they thought was another solution: the Contrerases established the “Ox Bow Crossing Living Trust,” sold part of their remaining property to the Trust, and then leased that property to Belton Finney. All of this occurred by the end of September 1988.

55. By October 14, 1988, Burriss had learned of these events and wrote a letter to the FmHA’s State Director in Temple, Texas. He described the nature of the dealings between the Contrerases and the Finneys and stated that “Mr. Finney is representing himself to be an ‘FmHA Advocate’ to *ignorant or ill-informed people* that are suffering financial difficulty and suffering the trauma of bankruptcy.” Burriss failed to mention that he had been the loan servicing officer to those “ignorant or ill-informed people” for years and had ignored State office directions to provide them with financial management assistance.

56. On January 30, 1989, after forcing the Contrerases into bankruptcy, selling their cattle, taking their land, taking their equipment and destroying their future viability as farmers, Burriss sent a form letter to the Contrerases’ bankruptcy counsel, Don Patterson, to inform him “about some of the loan servicing options FmHA now has available as a result of the Agricultural Credit Act of 1987.” He continued, “[i]t appears that the result of your client’s Chapter 7 discharge eliminated your client’s personal liability for the FmHA debt. This action makes your client ineligible for FmHA’s primary loan service options,” but did not disqualify the Contrerases from being “eligible to apply for the preservation loan servicing programs.” Burriss noted that “[i]f your client qualifies for these program(s) he or she would be able to retain possession of the home or farm.”

57. On February 20, 1989, Both Louis and Joe Contreras promptly asked to be considered for these programs. Rather than respond, Burris sold the last pieces of equipment owned by Louis on May 16, 1989, and October 19, 1990.

58. Upon information and belief, during a similar time period, Dale Burris provided “restarts” to white farmers laboring under similar financial conditions. Upon information and belief, men like Lonnie Widener Sr. and his son Lonnie Widener Jr., Bruce Ariola, and Tony Cruse, all suffered under similar financial conditions, but each was able to move on and recover because the USDA provided substantial assistance to help them get back on their feet. The only difference between the Contrerases and these men is that the Contrerases were (are) Mexican-American and those men were (are) white.

FmHA Deceives the Chairman of the U.S. House Committee on Agriculture about the Purchase of the Contrerases’ Land by FmHA Officials; FmHA Arbitrarily Denies Joe’s Appeal.

59. Upon information and belief, in late 1990, Alex Contreras reached out to his U.S. Congressman, E. (Kika) de la Garza, Chairman of the House Committee on Agriculture, to seek his assistance on behalf of the Contrerases. Rep. de la Garza made inquiries with the FmHA. FmHA’s Administrator, La Verne Ausman, investigated the matter and told Rep. de la Garza that “[n]o present or former FmHA employee purchased the properties in question.”

60. In reality, this was incorrect. FmHA official Jay McKay, a white man, had purchased a 50% interest in Louis’s foreclosed property at that time. After receiving this false report, Rep. de la Garza ended his investigation into the issue and provided no further assistance to the Contrerases. Administrator Ausman’s factually inaccurate report completely discredited the Contrerases in Rep. de la Garza’s eyes. As a result, the Contrerases lost an important and powerful advocate who had the ability to intervene on their behalf in Washington, D.C.

61. Meanwhile, FmHA sent Joe Contreras notices that it was accelerating his accounts. Fearing that they were running out of time, Richard Finney contacted FmHA officials on April 2, 1991. One official told Finney by phone that he had contacted Dale Burris, who claimed that he had never received the Contrerases' applications in 1989 for the loan servicing programs he had offered. But when the official contacted the state office, it confirmed that the county office did receive the package from Joe but due to some "confusion" the office had overlooked it.

62. Frustrated with the USDA's pattern and practice of ignoring the Contrerases' loan servicing applications, Finney wrote to another FmHA official that there was something unusual about the FmHA's treatment of the Contrerases and noted that it seemed wrong that a white FmHA employee, Jay McKay, had been permitted to purchase a stake in Louis's foreclosed property. Finney noted that the Contrerases "are Spanish people and very well thought of in the community," but that the "FmHA has treated them both very badly, not giving them their rights and taking their property and cattle." Finney received no response.

63. On April 18, 1991, Finney, on behalf of Joe Contreras, filed an appeal of the foreclosure action being pursued against Joe because, Finney claimed, the FmHA had failed to give Joe any "primary or preservation loan servicing" as Joe had requested.

64. On May 3, 1991, an official with the USDA's National Appeals Staff ("NAS") responded to Mr. Finney's request for an appeal on behalf of Joe Contreras. The NAS official stated that the foreclosure decision was not appealable because Joe had not "reaffirmed" his FmHA debt and therefore was ineligible for primary loan servicing programs.

65. Finney and the Contrerases realized that Burris had deceived them once again: he had never mentioned the "reaffirmation" requirement to the Contrerases.

FmHA Grossly Misrepresents the History of Louis's and Joe's Farming Operations and the Adequacy of the Loan Services that FmHA Provided to the Contrerases.

66. On April 22, 1992, the FmHA prepared a "Debt Settlement/Release of Liability Summary" regarding Louis's account. In the document, the FmHA stated that Louis had a "[f]arming background but lacked management ability," and that his operations failed because of his "[w]eak management ability," and "[m]arginally productive land." It stated that Louis's "[e]xpenses [were] understated [sic] and income overstated." Yet, when asked if the "borrower [was] properly and adequately supervised," the answer was, "Yes. Farm visits and chattel inspections were done annually." Regarding whether any "action or training [was recommended] to prevent losses of this nature in the future," the answer was, "None."

67. The FmHA had never before accused Louis of understating his expenses and overstating his income. It had never before stated that the land was only marginally productive. The FmHA denied any responsibility for the entire situation, stating that there was no action or training that could have been undertaken to prevent similarly-situated low-resource minority farmers from suffering the same fate. But this was false. The State Office had recommended for years that local FmHA officials conduct more than annual inspections and provide better financial management supervision for the Contrerases. Yet that was never done.

68. On September 29, 1994, the new FmHA district director prepared a "Debt Settlement/Release of Liability Summary" for Joe. Joe's Settlement Summary stated that he had started with "a good chance for success," had provided "realistic Farm and Home Plans," made no changes without the consent of the county supervisor and had been able to account for the entirety of FmHA's secured property. The FmHA stated that Joe's failure was due to "[f]air to poor management," but also allowed that "[d]rough conditions and low market prices were also a factor for failure." The FmHA again failed to take any responsibility, stating that Joe had been

“properly and adequately supervised,” because “at least 1 chattle inspection was done annually.” But again, the State Office had recommended for years that local FmHA officials conduct more than annual inspections and provide better financial management help for the Contrerases. When asked how to prevent a similar loss in the future, the response was, “continue with present stringent loan policies.”

69. Just a few years later, in February 1997, the USDA’s Civil Rights Action Team released its damning report. The report compiled various complaints from minority farmers all over the country. The Contrerases personally felt that the report represented much more – it vindicated their decision to continue their pursuit of relief for the discrimination they had suffered at the hands of the FmHA.

Congress Extends the Statute of Limitations for Lending Discrimination.

70. The Equal Credit Opportunity Act (“ECOA”), 15 U.S.C. § 1691(a)(1), generally has a two-year statute of limitations triggered by the “date of the occurrence of the violation.” But in 1998, after “the USDA publicly acknowledged that in the early 1980s it ‘effectively dismantled its civil rights enforcement apparatus,’” *Garcia v. Vilsack*, 563 F.3d 519, 521 (D.C. Cir. 2009), Congress enacted a special remedial statute that extended the ECOA statute of limitations until October 21, 2000, and provided that eligible complainants could either file an ECOA action in federal court or renew their administrative complaints and obtain a determination on the merits of their claim from the USDA.

71. The discrimination claims the Contrerases filed in March and May of 1986 meet Congress’s definition of an “eligible complaint” for purposes of the extended statute of limitations under ECOA, as do the numerous other complaints they submitted.

72. There were other farmers –white farmers – in North Texas who struggled under the same conditions that the Contreras family did in the early to mid-1980s. The FmHA did not abandon them like it abandoned the Contrerases because the other farmers were white and the Contrerases are Hispanic.

COUNT I
(Violation of Equal Credit Opportunity Act)

73. The Contrerases hereby incorporate and re-allege all paragraphs above as fully set forth herein.

74. During the period from January 1, 1981, through December 31, 1996, the Contrerases attempted to apply for loans or loan servicing, or applied for loans or loan servicing, from the USDA.

75. The Contrerases were eligible for the loans and/or loan servicing that they attempted to apply for, or applied for, but nonetheless they were denied.

76. Based on the Contrerases' Hispanic ethnicity, the USDA discriminatorily denied the Contrerases' loan application requests, loans, and/or loan servicing.

77. FmHA officials convinced the enterprising Contrerases to acquire with USDA farm loans large parcels of land – land that was not properly equipped with basic fencing and water distribution systems – for a massive cattle-ranching operation. The Contrerases upheld their end of the bargain by working tirelessly to build their business. FmHA officials, in contrast, barely could be bothered to visit with them more than once a year despite the FmHA's recognition that the Contrerases needed significant financial management assistance. Then, on the whim of one inexperienced local official, Dale Burriss, FmHA suddenly and irrevocably turned off the loan spigot. FmHA did so despite the existence of loan servicing programs that could have saved the Contrerases. Instead, Burriss and others at the FmHA either ignored or

blocked every effort by the Contrerases to salvage their operations, while at the same time offering such assistance to similarly situated white farmers.

78. Upon information and belief, a number of other white farmers in Hall County and the surrounding area, including men such as Lonnie Widener Sr. and Jr., Bruce Ariola, and Tony Cruse, suffered under the same adverse meteorological and economic conditions as the Contrerases. These white farmers received loans and/or loan servicing and/or loan forgiveness or settlements that the Contrerases were denied under similar circumstances.

79. Then, adding insult to injury, FmHA officials foreclosed on the Contrerases and sold or rented, at large discounts, parts of their land, their homes, and their equipment to FmHA officials, their family, friends, and other insiders in and around Hall County.

80. The Contrerases timely complained about the FmHA's actions, telling the USDA and anyone who would listen to them that they were the victims of discrimination. But instead of investigating the problem, the USDA allowed Burris to continue to hide facts, ignore loan servicing requests, and violate the USDA's own regulations. Burris played on long-held stereotypes of the "ignorant Mexican" and no one from the USDA challenged him by conducting a ground-level investigation of the situation.

81. The USDA's failure to provide the Contrerases' loans and loan servicing constituted racial discrimination in violation of ECOA's requirements, 15 U.S.C. § 1691(a).

PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully request this Court to:

1. Enter judgment in their favor and against Defendant;
2. Award them monetary relief in the form of actual damages;

3. Award reasonable attorneys' fees and costs, including expert fees, and interest;
- and
4. Order such other and further relief as the Court deems just and proper.

Date: September 18, 2014

Respectfully Submitted,

/s/ Adam P. Feinberg

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*Attorneys for Plaintiffs Joe Contreras and
Louis Contreras*

CERTIFICATE OF SERVICE

I hereby certify that, on September 18, 2014, I filed the foregoing document via the court's ECF email system, which will send an electronic copy to all counsel of record.

/s/ Adam P. Feinberg
Adam P. Feinberg