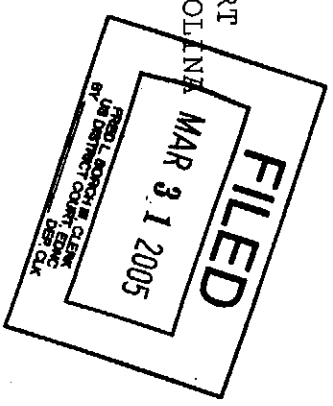


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION



In re Peanut Crop Insurance
Litigation, MDL-1634

)
)
)
)
)

Master Docket No:
4:05-CV-8H
ALL CASES

ORDER

This matter is before the court on defendants' motion to dismiss or alternatively for summary judgment in transferred cases and plaintiffs' motion for class certification and summary judgment for transferred cases. The parties have filed proper responses and replies; therefore, these matters are ripe for adjudication.

I. Summary Judgment in Barnhill v. Davidson, 4:02-CV-159-H(4)

By order dated July 22, 2004, in the case of Barnhill v. Davidson, No. 4:02-CV-159-H(4) (E.D.N.C.) ("Barnhill" case), this court granted the plaintiffs' summary judgment motion on its breach of contract claim and denied defendants' cross-motion for summary judgment. Defendants' motion for reconsideration of the July 22, 2004, order was denied on January 26, 2005.

II. Summary Judgment in Transferee Cases

On October 26, 2004, the Judicial Panel on Multidistrict Litigation ordered that six actions pending in other district courts raising the identical claims for relief be transferred to this district for consolidated pretrial proceedings ("transferred cases").

The parties have renewed their cross-motions for summary judgment with respect to the transferred cases. Since there are no new facts presented which would cause this court to rule differently from the summary judgment order in the Barnhill case of July 22, 2004, which is incorporated herein by reference, plaintiffs' motion for summary judgment is GRANTED and defendants' motion for summary judgment is DENIED in each of the transferred cases.

In anticipation of this ruling, defendants have also renewed their motion for reconsideration. This court again finds no basis for amending its summary judgment order, and therefore defendants' motion for reconsideration is hereby DENIED in each of the transferred cases.

III. Class Certification in Barnhill v. Davidson, 4:02-CV-159-H(4)

In the Barnhill case, this court previously certified the following class:

Peanut farmers whose farms are located in the Eastern District of North Carolina, who had insurance coverage on peanuts under the 2002 Peanut Multiple Peril Crop Policies, who had losses for the 2002 crop year, who settled those losses for \$0.1775 per pound, and who had been assigned farm poundage quotas for the 2001 crop year.

July 22, 2004, Order at 48.

IV. Class Certification in the Transferee Cases

Plaintiffs now also seek class certification in each of the transferred cases. Although defendants oppose class certification

in the transferred cases on the same grounds that they asserted in Barnhill, the parties agree that the issues with respect to class certification in the transferred cases are identical to those presented in Barnhill. Accordingly, for the reasons set forth in the July 22, 2004, order, the court hereby ORDERS certification of a district-wide class corresponding to the originating district in each of the transferred cases, using the otherwise identical class definition quoted above.

It is further ORDERED that R. Daniel Boyce, G. Eugene Boyce and Phillip R. Isley of the law firm, Boyce & Isley, PLLC, shall serve as class counsel for plaintiffs in all transferee cases. Class counsel shall send the previously approved class notice to all potential class members as soon as practicable as required by Fed. R. Civ. P. 23.

It is further ORDERED that the following plaintiffs shall serve as class representatives in each of the transferee cases and that class counsel advise class representatives of their duties and responsibilities under Rule 23:

David Donaldson:

ALABAMA PEANUT FARMERS;
TERRY E. BEASLEY, et al., v. ROSS J. DAVIDSON,
ADMINISTRATOR FOR RISK MANAGEMENT AGENCY, et

al.,

EDNC File # 4:04-CV-188-H2

Joey Watford v. Ross J. Davidson, et al.,

EDNC File # 4:05-CV_2-H2

U.S. District Court, MDAL;

No. 1:03-500 and No. 1:03-153

James Barnes and Joseph Ditty:
FLORIDA PEANUT FARMERS: JAMES C. BARNES; et al.
v. ROSS J. DAVIDSON, et al.,
EDNC File # 4:04-CV-189-H2
U.S. District Court, NDFL, Panama City
Division; No. 5:03-CV-107-MCR

**Milton L. Hall, the Honorable Larry Jones,
Cliff Oliver, and Walter Davenport:**
GEORGIA PEANUT FARMERS: BRADFORD L. CARROLL, et
al. v. ROSS J. DAVIDSON, et al.,
EDNC File # 4:04-CV-190-H2
U. S. District Court, MDGA; CIVIL ACTION 1:03-
CV 175-WLS

Wallace Berry:
SOUTH CAROLINA PEANUT FARMERS: WALLACE A.
BERRY, et al. v. ROSS J. DAVIDSON,
ADMINISTRATOR FOR RISK MANAGEMENT AGENCY, et
al.,
EDNC File # 4:04-CV-187-H2
U.S. District Court, NDSC; C/A No.: 3:03-1631-
10

Tommy Mercer:
TEXAS PEANUT FARMERS: BILLY M. BARNES; et al.
v. ROSS J. DAVIDSON,
ADMINISTRATOR FOR RISK MANAGEMENT AGENCY, et
al.,
EDNC File No. 4:04-CV-186-H2
U.S. District Court, EDTX, Marshall Division;
Civil Action No. 2-03CV-120

**Tom Clements, Billy Bain, Jim Ferguson, and
Glenn Hawkins:**
[VIRGINIA PEANUT FARMERS] TOM CLEMENTS, et
al. v. ROSS J. DAVIDSON, ADMINISTRATOR FOR
RISK MANAGEMENT AGENCY, et al.,
EDNC File # 4:04-CV-191-H2
U. S. District Court, EDVA, NORFOLK AND
NEWPORT NEWS DIVISIONS
2:03-CV-352

CONCLUSION

For the foregoing reasons, plaintiffs' motion for summary judgment is granted, and defendants' motion for summary judgment is

denied. Defendants' motion for reconsideration is also denied. Plaintiffs' motion for class certification is granted and class counsel and class representatives were appointed as stated above. Class counsel shall send class notice to all potential class members as soon as practicable as required by Federal Rule of Civil Procedure 23.

This 30th day of March, 2005.


MALCOLM J. HOWARD

United States District Judge

At Greenville, NC
#26

*I certify the foregoing to be a true and correct
copy of the original.*
Fred L. Borch III, Clerk
United States District Court
Eastern District of North Carolina

by 
Deputy Clerk