

**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
WASHINGTON FIELD OFFICE  
1400 L STREET, NW, SUITE 200  
WASHINGTON, D.C. 20005**

ARUN BASU, et al.,	)	
	)	
Class Agents,	)	
	)	
	v. )	EEOC No. 100-A1-7863X
	)	Agency No. 000190
ANN VENEMAN,	)	
Secretary, U.S. Department of Agriculture,	)	
	)	
Agency.	)	Administrative Judge:
	)	Andrew Culbertson
	)	

**NOTICE OF SETTLEMENT**

TO: Potential Class Members

FROM: Arlean Leland, Associate General Counsel, Office of the General Counsel (OGC),  
United States Department of Agriculture (USDA)

You are hereby notified that you have been identified as a potential Class Member in the above-mentioned Class complaint. In addition, you are provided with the following information pursuant to 29 C.F.R. §1614.204(e):

**1. The name of the Agency or organizational segment and its location.**

The Class Action complaint is filed against the United States Department of Agriculture (“USDA” or the “Department”) agency-wide at all locations. The USDA headquarters address is 1400 Independence Ave., S.W., Washington, D.C. 20250. The Secretary of Agriculture is Ann Veneman.

**2. A description of the issues accepted as part of the Class complaint:**

Complainant, a GS-15 Sociologist with the USDA Natural Resources Conservation Service (“NRCS”) filed a formal complaint dated November 18, 1999 on behalf of a Class consisting of any Asian/Pacific Islander employees of the agency at any grade level between 1994 to the present. Complainant alleged that based on race/national origin (South Asian), color (brown), religion (Hindu and Islam) and in reprisal for prior EEO activity the Class Members were discriminated against in promotions, demotions, details, stripped of managerial duties and responsibilities, selections, unresolved EEO complaints, terminations, and reprisals.

On June 27, 2001, the EEOC conditionally certified the Class as, “All Asian/Pacific employees of the agency who were eligible for but have not received promotions and all Asian/Pacific persons who have applied for positions with the agency but have not been selected.”

**3. An explanation of the binding nature of the resolution of the complaint on Class Members:**

a. **Settlement Agreement**

The following terms of this Settlement Agreement (“Settlement” or “Agreement”) were reached after negotiations between the parties. The parties are requesting that the Administrative Judge assigned to the case, EEOC Administrative Judge Andrew Culbertson, approve this Class Action Settlement Agreement under 29 C.F.R. §1614.204(e).

b. **Parties to the Settlement**

The parties to the Settlement include Class Agent Arun Basu, on behalf of himself and the Settlement Class, and the Department.

c. **Persons Included in the Settlement Class**

“All current Asian/Pacific Islander employees at the GS-7 level and above who were eligible for but have not received promotions and all Asian/Pacific Islander current employees who were eligible for and have applied for positions with the Department but have not been selected.”

d. **Terms of Settlement**

Generally: As of the Effective Date, and continuing for the length of the Settlement, the Department has proposed terms to aid in career development and advancement.

Special Provisions: In order to fully effectuate the Settlement, the Parties agreed to the following provisions:

A. **Injunctive Relief**

- a. The Department will establish a pilot Development Opportunity Placement Program (DOPP) that provides qualified and eligible Class Members who apply with Priority Consideration for a finite period in a nationwide program designed to provide details, temporary promotions or developmental assignments to positions in USDA Headquarters and Field Office Locations.
- b. The Department will establish a Graduate Scholarship Program.
- c. The Department will conduct a regional Department-wide job fair.

- d. The Department will review, update and issue Department-wide Affirmative Employment Plans (“AEPs”).
- e. The Department will ensure that all Asian/Pacific Islander employees Grades 7 and above have current up-to-date IDPs.
- f. Reporting and Monitoring. A Departmental Liaison working under the supervision of the Assistant Secretary of Civil Rights will work with the Class Agents and USDA agencies on implementation and monitoring of this Agreement.

B. Individual Relief.

Individual Relief will be provided under the following categories:

Tier One: The Parties agree that the six (6) Class Agents listed in Exhibit 1 have individual claims of employment discrimination which shall be resolved by the Terms of Individual Settlement Agreements.

Offer of Relief: Individual Agreements sent to individual Class Members, and injunctive relief.

Tier Two: Global resolution of all other named Class Agents.

Offer of Relief: **Lump sum payment of Three Hundred Seventy-Two Thousand Five Hundred Dollars (\$372,500)** to have Class Agents share at their discretion, and injunctive relief.

Tier Three: All other cases subsumed under the Class definition pending at the EEOC, Federal District Court, or Federal Circuit Court of Appeals.

Offer of Relief: (a) Federal District Court - Lump sum of Seven Thousand Five Hundred Dollars (\$7,500) plus attorney fees incurred since filing in Federal Court; injunctive relief; (b) EEOC - Lump sum of Five Thousand Dollars (\$5,000) or expedited hearing and injunctive relief.

Tier Four: All Asian/Pacific Islander employees who fall under the Class definition, but did not file a complaint of employment discrimination.

Offer of Relief: Injunctive relief

- C. Attorneys' Fees. **Three Hundred and Fifty Thousand Dollars (\$350,000) in reasonable attorneys' fees to all attorneys representing Class Agents and Class Members described in Tier One. Funds to be transferred to an account established by Class Agent Basu for appropriate distribution within thirty (30) days from the Effective Date of this Agreement. Attorneys must acknowledge payment by co-signing Individual Agreements and the Withdrawal Letter under Exhibit 2.**
- All attorneys' fees for Dr. Mon Yee in Tier One and Dr. Jamshyd Rasekh and Dr. Jess Rajan in Tier Two, Joyce Mayekawa and Ronald Shinsato in Tier Three, will be paid separately by USDA, contingent upon their acceptance of Settlement Offer.**
- Five Tier Two complaints before EEOC will also be offered attorneys' fees by USDA, contingent upon their acceptance of the Settlement Offer, not to exceed Twenty Five Thousand Dollars (\$25,000).**
- D. Effective Date and Length of Settlement. The Settlement will go into effect on October 16, 2003, or on the date on which the EEOC approves the Settlement, whichever is later. The Settlement will remain in effect for three (3) years.

**4. Options for Settlement Class Members**

- A. You may do nothing, and you will remain a Class Member and be both entitled to and bound by the terms of equitable and injunctive relief set out in the Settlement if it is approved under 29 C.F.R. §1614.204(g).
- B. You may object to the Settlement, if you follow the instructions for Fairness Hearing and Process for Objections that is set forth below.

**5. The names, addresses and telephone numbers of the Class representative:**

James P. Hood, Esq.  
1226 Eleventh St., N.W.  
Washington, D.C. 20001  
FAX: (202) 371-2535  
PHONE: (202) 289-1130

**6. Fairness Hearing and Process for Objections**

Within 30 days of the date of the notice of resolution, any member of the class may petition the undersigned Administrative Judge to vacate the proposed resolution because it benefits only the class agents, or is otherwise not fair, adequate and reasonable to the class as a whole. Petitions are to be filed with Administrative Judge Andrew Culbertson at 1400 L Street, N.W., Suite 200, Washington, D.C. 20005. In the event the Administrative Judge determines that there are legitimate questions raised concerning the fairness, adequacy, or reasonableness of the resolution, a Fairness Hearing will be scheduled to address those questions. If the Administrative Judge, after reviewing any petitions that are filed, determines that the resolution is fair, adequate, and reasonable to the class as a whole, he will issue a decision to that effect which will thereby make the resolution binding on all class members.

In addition, copies of any petition sent to the Administrative Judge must also be mailed or sent via facsimile to each of the addresses below:

Counsel for Class:

James P. Hood, Esq.  
1226 Eleventh St., NW  
Washington, DC 20001  
Fax: (202) 371-2535

Counsel for USDA:

Arlean Leland, Esq.  
1400 Independence Ave., SW  
Room 2006-S  
Washington, DC 20250-1400  
Fax: (202) 720-4089