# Case Law Index Updates –February 2011

# **Rusty W. Rumley**

Staff Attorney and

### **Benjamin Thomas**

Graduate Assistant

# **Animal Feeding Operations**

### South Dakota

Grant County Concerned Citizens v. Grant County Bd. of Com'rs, 794 N.W.2d 462 (S.D. 2011) (proposed increase of setbacks for CAFOs was not a legislative decision and not referable to a referendum vote)

# Aquaculture

### Ninth Circuit

Wild Fish Conservancy v. Salazar, 628 F.3d 513 (9th Cir. 2010) (hatchery jeopardized endangered bull trout)

### **Bankruptcy**

# Seventh Circuit

In re Eckberg, No. 10-81914, 2011 WL 304485 (Bankr. C.D.Ill. Jan. 27, 2011) (grain dealer not allowed administrative priority claim in Chapter 12 farmer's bankruptcy)

### Eighth Circuit

In re Schnuelle, 441 B.R. 616 (8th Cir. B.A.P. 2011) (farmer's debt is nondischargeable due to misstatements and misrepresentations on balance sheets submitted to creditor)

#### **Commercial Law**

### Eight Circuit

Salton v. Polyock, No. C10-4113-MWB, 2011 WL 487853 (N.D. Iowa Feb. 10, 2011) (breach of contract claim regarding sale of cow embryos)

### Minnesota

Glacial Plains Co-op v. Chippewa Valley Ethanol Co., No. A10-869, 2011 WL 382710 (Minn. Ct. App. Feb. 8, 2011) (whether ethanol contract required cooperative to pay for grain storage costs)

### **Washington**

Wilcox v. Clasen Fruit & Cold Storage Co., No. 28588-0-III, 2011 WL 383926 (Wash. Ct. App. Jan. 25, 2011) (dispute over "optimum color and size" provision of fruit growing contract)

# **Crop Insurance**

# Eighth Circuit

In re Schnuelle, 441 B.R. 616 (8th Cir. B.A.P. 2011) (farmer's debt is nondischargeable due to misstatements regarding crop insurance coverage)

### **Estate Planning**

# Oregon

In re Finear, No. 060084D3, 2011 WL 521161 (Or. Ct. App. Feb. 16, 2011) (husband awarded previously-inherited farm as separate property after divorce)

#### **Finance and Credit**

### Oklahoma

Farm Credit Servs. of Am., Inc. v. Wilson, No. 107471, 2010 WL 5791563 (Ok. Ct. App. Sept. 29, 2010) (buyers of planter took planter subject to creditor's security interest)

# **Labor Law**

# Eight Circuit

Morales v. Farmland Foods, Inc., No. 8:08CV504, 2011 WL 344112 (D.Neb Feb. 1, 2011) (dispute regarding time spent donning, doffing, and washing protective equipment)

### Tenth Circuit

Garcia v. Tyson Foods, Inc., No. 06-2198-JWL, 2011 WL 346078 (D.Kan Jan. 31, 2011) (dispute regarding wages for time spent on various secondary activities)

Eleventh Circuit

Joseph v. Morice, No. 10-22466-CIV, 2011 WL 486137 (S.D. Fla. Feb. 7, 2011) (violations of Migrant and Season Agricultural Worker Protection Act)

Juarez v. Horstman, No. 0-990, 2011 WL 441523 (Iowa Ct. App. Feb. 9, 2011) (injury from eggbreaking machine)

# **National Organic Program**

# California

Jacobs Farm/Del , Inc. v. W. Farm Serv., Inc., 119 Cal.Rptr.3d 529 (Cal. Ct. App. 2010) (negligence and trespass actions against pesticide applicator by organic farmer)

# **Nutrition Programs**

### Ninth Circuit

Pimentel v. Dreyfus, No. C11-119 MJP, 2011 WL 321778 (W.D.Wash. Jan. 28, 2011) (discontinuance of Washington state nutrition program for legal immigrants)

### **Packers and Stockyards Ac**

# Fifth Circuit

City of Clinton, Ark. v. Pilgrim's Pride Corp., 632 F.3d 148 (5th Cir. 2010) (action against poultry processor for plant closing)

# **Perishable Agricultural Commodities Act**

## Second Circuit

Food Auth., Inc. v. Sweet & Savory Fine Foods, Inc., No. 10-CV-1738 (JS)(WDW), 2011 WL 477714 (E.D.N.Y. Feb. 4, 2011) (failure to strictly comply with PACA notice provisions not a bar to recovery)

### **Pesticides**

# District of Columbia

Reckitt Benckiser, Inc. v. Jackson, No. 09-445 (ESH), 2011 WL 263730 (D.D.C. Jan. 28, 2011) (EPA lacked authority under FIFRA to bring a misbranding action)

# **Renewable Energy**

# Ninth Circuit

Southwest Windpower, Inc. v. Imperial Elec., No. CV-10-8200-SMM, 2011 WL 486089 (D.Ariz. Feb. 4, 2011) (dispute between wind turbine manufacturer and turbine installer) Minnesota

Glacial Plains Co-op v. Chippewa Valley Ethanol Co., No. A10-869, 2011 WL 382710 (Minn. Ct. App. Feb. 8, 2011) (whether ethanol contract required cooperative to pay for grain storage costs)

# **Secured Transactions**

#### Oklahoma

Farm Credit Servs. of Am., Inc. v. Wilson, No. 107471, 2010 WL 5791563 (Ok. Ct. App. Sept. 29, 2010) (buyers of planter took planter subject to creditor's security interest)

#### **Urban Encroachment**

### Minnesota

Siewert v. N. States Power Co., 793 N.W.2d 272 (Minn. 2011) (action by dairy farmers against electric utility for effects of stray voltage on cows)

#### Oregon

Davis v. Jefferson County, 245 P.3d 665 (Or. Ct. App. 2010) (post-acquisition re-zoning of land for exclusive farm use)

### **Water Law**

#### Ninth Circuit

San Luis Unit Food Producers v. United States, No. 1:09-cv-01871 OWW DLB, 2011 WL 693329 (E.D. Cal. Feb. 16, 2011) (dispute regarding federal management of water access to farmers)

### Federal Circuit

Klamath Irr. Dist. v. United States, No. 2007-5115, 2011 WL 537853 (Fed. Cir. Feb. 17, 2011) (litigation regarding federal temporary reductions of irrigation water)

Klamath Tribe Claims Comm. v. United States, No. 09-75L, 2011 WL 490502 (Fed. Cl. Feb. 11, 2011) (tribe demands disbursement of funds to safeguard treaty-based water rights)