

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION

|                                    |   |                      |
|------------------------------------|---|----------------------|
| FARM-TO-CONSUMER LEGAL             | ) |                      |
| DEFENSE FUND, et al.,              | ) |                      |
|                                    | ) |                      |
| Plaintiffs,                        | ) |                      |
|                                    | ) |                      |
| v.                                 | ) | No. 5:10-cv-4018-MWB |
|                                    | ) |                      |
| KATHLEEN SEBELIUS, Secretary,      | ) |                      |
| United States Department of Health | ) |                      |
| and Human Services, et al.,        | ) |                      |
|                                    | ) |                      |
| Defendants.                        | ) |                      |

**PLAINTIFFS' FEBRUARY 2011 STATUS REPORT**

Pursuant to the Court's Order of September 17, 2010 (doc. #29) and the text entry of October 19, 2010, the Plaintiffs hereby submit their status report.

Plaintiffs refer the Court to the database compiled by the Defendant Department of Health and Human Services (the Department), under the auspices of the Centers for Disease and Control and Prevention, National Center for Health Statistics, National Vital Statistics System. See "Number of deaths from each cause, by 10-year age groups, race, and sex: United States, 2005" located on the Internet: <http://205.207.175.93/VitalStats/TableViewer/tableView.aspx?ReportId=26044>. These data can be referred to when determining the risk of death associated with engaging in certain conduct or behavior. For example, and according to these data for 2005, there were the following numbers of **deaths** in the United States from the following causes:

1. obesity, 4,649
2. mental and behavioral disorders due to use of alcohol, 7,389

3. unspecified mental and behavioral disorder due to use of tobacco, 1,096
4. eating disorders, 126
5. sleep disorders, 684
6. pedestrian injured in collision with car, pickup truck, or van, 2,986
7. pedestrian injured in collision with railway train or railway vehicle, 406
8. pedal cyclist injured in collision with car, pickup truck, or van, 449
9. motorcycle rider injured in collision with pedestrian or animal, 68
10. car occupant injured in collision with car, pickup truck, or van, 4,596
11. occupant of special all-terrain or other motor vehicle designed primarily for  
off-road use, injured in transport accident, 1,040
12. accident to watercraft causing drowning and submersion, 213
13. accident to powered aircraft causing injury to occupant, 558
14. fall on some level from slipping, tripping, and stumbling, 698
15. fall involving wheelchair, 356
16. fall involving bed, 621
17. fall involving chair, 216
18. fall on and from stairs and steps, 1,690
19. fall on and from ladder, 425
20. fall from, out of, or through building or structure, 533
21. fall from tree, 88
22. struck by thrown, projected, or falling object, 699
23. contact with powered lawn mower, 57
24. discharge from other and unspecified firearms, 578

- 25. bitten or struck by dog, 33
- 26. bitten or struck by other mammals, 80
- 27. drowning and submersion while in bathtub, 315
- 28. etc., etc., etc.

Counsel for Plaintiffs could not find in these data any deaths associated with the consumption of fresh, unprocessed, raw milk and/or other raw dairy products. Moreover, Plaintiffs are not aware that bathtubs, dogs, lawn mowers, firearms, trees, ladders, steps, chairs, wheelchairs, boats, cars, trucks, railway cars, aircraft, tobacco or alcohol are illegal items for personal use that are outright prohibited from being in the possession of a person.

In addition, Plaintiffs are attaching hereto the affidavit of Dr. Theodore F. Beals, a physician currently residing in the State of Michigan who has been qualified in court proceedings as an expert in medicine, food safety, pathology, and microbiology. Dr. Beals' curriculum vitae is attached to his affidavit. In his affidavit, Dr. Beals explains the benefits associated with the consumption of fresh, unprocessed milk and how it is more of a risk for him to drive his car and obtain his milk than it is for him to consume his milk. Dr. Beals also explains the differences between the two types of milk in this country, (1) the healthy and nutritious type that is intended to be consumed fresh and unprocessed, and (2) the industrial type of milk that must be pasteurized to rid itself of pathogens before it should be consumed.

Dated: February 18, 2011

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 18, 2011, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system that will send notification of such filings(s) to the following:

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