



# Farm-to-Consumer Legal Defense Fund<sup>®</sup>

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**FOR IMMEDIATE RELEASE**

## **FTCLDF Files Suit Against FDA over Raw Milk Ban**

### ***Challenge to Interstate Prohibition on Raw Milk for Human Consumption***

**Falls Church, Virginia (February 20, 2010)** - The Farm-to-Consumer Legal Defense Fund, on behalf of its national membership base and in conjunction with ten other plaintiffs, consisting of consumers and a farmer from six different States, filed a historic lawsuit today against the Food and Drug Administration and the Department of Health and Human Services, challenging the legality of FDA's ban on the interstate distribution of raw milk for human consumption. The lawsuit was filed in the United States District Court for the Northern District of Iowa and seeks declarations from the Court that 21 C.F.R. 1240.61 and 21 C.F.R. 131.110, the federal regulations establishing the ban, are unconstitutional as applied to the plaintiffs.

"This is a lawsuit of historical significance" said Pete Kennedy, President of the Legal Defense Fund, "because it directly challenges for the very first time the legality of the ban against the interstate distribution of raw milk in final package form for human consumption." Kennedy went on to explain, "Too often we have seen FDA take actions against dairy producers, and recently in Georgia against a virtual farmers' market, that attempt to deny the individuals' right to consume the food of their choice. The interstate ban is unjust and needs to be overturned." The complaint for declaratory judgment brings five claims alleging violations of the right to travel, the right to privacy, the non-delegation doctrine, substantive due process, and that FDA's action in promulgating the two rules exceeds the authority granted by the Federal Food, Drug and Cosmetic Act.

"This will be another case where the legality of governmental action as applied to these plaintiffs will be put to the test," explained the Fund's General

Counsel, Gary Cox. "For the federal government to say that raw milk and raw dairy products are a communicable disease *per se* is irrational," said Cox. "We are also happy to be working with an attorney in Iowa who has assisted us in the preparation of this case, and are optimistic in having this Court decide these very important issues" said Cox. The suit names Kathleen Sebelius in her official capacity as Secretary of HHS and Margaret Hamburg in her official capacity as Commissioner of FDA as defendants in the case. With the filing of the complaint, the defendants have 60 days to provide their answer to the allegations contained in the complaint. Further details about the lawsuit will be posted at [www.farmtoconsumer.org](http://www.farmtoconsumer.org).

***About The Farm-to-Consumer Legal Defense Fund: The Fund defends the rights and broadens the freedoms of sustainable farmers, and protects consumer access to local, nutrient-dense foods. Concerned citizens can support the Fund by calling 703-208-FARM (3276) or by joining the Fund at [www.farmtoconsumer.org](http://www.farmtoconsumer.org). The Fund's sister organization, the Farm-to-Consumer Foundation ([www.farmtoconsumerfoundation.org](http://www.farmtoconsumerfoundation.org)), works to promote consumer access to local, nutrient-dense food and support farmers engaged in sustainable farm stewardship.***

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