

Supreme Court Ruling Clears Road to Recovery for E. Greenbush Farm

Court Orders Crop Insurer to Honor Arbitrator's Award, Opens Door to Federal Crop Disaster Assistance

The Rensselaer County Supreme Court has removed what should be the last major legal obstacle on an East Greenbush farm's road to recovery by ordering a national crop insurance company to honor an arbitrator's award. The ruling means the insurer, as directed by the arbitrator, will have to correct its claims adjustment practices that imperiled the family farmers' 300-acre operation. The insurer had inappropriately cancelled the farmers' crop insurance coverage due to a simple misnomer in the insurance records. Christopher and Ember Webb, a brother and sister doing business as Gold Krest Enterprises, on June 6, 2011 received an award entirely in their favor as a result of an arbitration case with private insurer Rural Community Insurance Services (RCIS) and its independent insurance agent, Crop Growers LLP. The arbitrator directed RCIS to recognize that RCIS had insured the farm's crops in 2008 and 2009, regardless of any of mistakes made by the insurer or its agent in acknowledging Gold Krest's actual ownership interests. The award by American Arbitration Association arbitrator, Roland M. Cavalier, meant that the Webbs would not have to refund RCIS over \$41,000 in crop insurance indemnity payments they received from the insurer for sweet corn losses sustained in 2008 and 2009 due to poor weather conditions. The Webbs subsequently sought a Supreme Court order confirming and enjoining RCIS to the binding arbitration award. RCIS responded by seeking orders to vacate the arbitrator's opinion and award and to dismiss the Webbs' petition. However, Acting Supreme Court Justice, Christian F. Hummel, held that RCIS "failed to state a basis for vacating the arbitrator's decision," which was ultimately confirmed by the court. More importantly, the Sept. 14 Supreme Court ruling should make the Webbs eligible for participation in relief available under the U.S. Department of Agriculture's Supplemental Revenue Assistance Program (SURE). Access to this federal crop disaster assistance, which hinges on RCIS's correction of its records, would further help the Gold Krest farm recover from devastating back-to-back crop losses and secure its role as a long-time contributor to Rensselaer County's agricultural industry. The lifeline to SURE benefits was cut when RCIS refused to correct records in which the insurer incorrectly identified the insured business as Gold Krest Farms, even though since 2005 the Webbs had been making, and RCIS had been cashing, insurance premium payments from the Gold Krest Enterprises' partnership bank account. RCIS cancelled the Webbs' insurance coverage for 2008 and 2009 and demanded repayment of the indemnity payments it made to the farmers for those years. Christopher Webb has operated the business in partnership with his sister, Ember Webb, since they took over the business after the 1991 death of their father, James Webb, who operated it for decades under the Gold Krest Farms moniker. Tully Rinckey PLLC Partner Douglas J. Rose, who represented the Webbs at arbitration and in the Rensselaer County Supreme Court proceeding, remarked, "This is a case of David versus Goliath – of a small and relatively unsophisticated family farmer against a large insurance company and its unrelenting bureaucracy. The Supreme Court's ruling enjoins RCIS to comport with a fair and equitable arbitrator's award that promises to relieve the Webb family of a tremendous financial

burden.”