

***Great American Insurance Co. v. Ross Wahl***  
**No. 117,176**

Ross Wahl is a farmer in Riley County, Kansas. Wahl applied for and obtained crop insurance through Great American Insurance Company (GAIC). Wahl indicated on his insurance applications that he was a "New Producer." GAIC paid the Wahl for crop production losses in 2009 and 2011. In 2012, GAIC audited Wahl's loss payments and determined that Wahl had been overpaid for these losses because he was not a New Producer as he claimed in his application.

Wahl suffered another crop failure in 2012 for which he was entitled to coverage and payment. Because of what GAIC believed to be overpayments in 2009 and 2011, GAIC withheld Wahl's 2012 payment. GAIC sent Wahl a demand letter for repayment of the remaining overpayment balance. Wahl responded to GAIC's demand by challenging GAIC's determination that Wahl was not a New Producer and by demanding the 2012 insurance payment to which he was entitled. The parties continued written communications in this matter for about three years regarding the dispute. GAIC ultimately notified the USDA of the alleged overpayment and the USDA deemed Wahl ineligible for USDA programs based on this notification.

Although neither party sought arbitration during the three-year dispute, GAIC filed suit against Wahl in October 2015 to collect the \$2,217 it allegedly overpaid Wahl. Wahl counterclaimed for the \$10,818 payment that GAIC withheld from the 2012 claim.

Before trial, GAIC asserted the court lacked jurisdiction to review Wahl's counterclaim because Wahl failed to initiate arbitration as required by his crop insurance policy. GAIC argued the arbitration requirement did not apply to the insurer, which is why it was able to file suit in state court. The district court rejected GAIC's assertion that the arbitration provision precluded Wahl's counterclaim. Specifically, the court found both the insured and the insurer were bound by the arbitration agreement and GAIC waived its enforcement by filing suit against Wahl.

At trial, GAIC alleged Wahl was not entitled to the full amount of the 2009 and 2011 claims because Wahl was not a New Producer. Specifically, GAIC alleged Wahl held a substantial business interest in R.W. Farms, which produced crops in 2000, 2001, 2002 and 2003. Wahl, however, presented evidence in the form of minutes from a corporate stockholder meeting which showed Wahl ceased holding stock in R.W. Farms in May 2002, which meant Wahl properly designated himself as a New Producer in his application for GAIC crop insurance. The court ultimately held Wahl was entitled to payment from the Plaintiff for a crop insurance loss in 2012 in the amount of \$10,818 and ordered GAIC to notify the USDA that Wahl should be restored to eligibility for USDA programs, to the extent that he was ineligible for such programs based upon Great American's claims in this litigation.

**ISSUES:**

1. Did the district court err by applying state law to resolve the crop insurance policy dispute between the parties instead of federal law?
2. Did the district court err by allowing Wahl to proceed with his counterclaim without first seeking arbitration as required by the insurance policy?
3. Did the district court err by interpreting the terms of the crop insurance policy itself instead of asking the Federal Crop Insurance Corporation to interpret the terms?