

United States Court of Appeals  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 09-1270

September Term 2010

AGRI-PACA-APP06-0008

Filed On: March 2, 2011

Cheryl A. Taylor and Steven C. Finberg,

Petitioners

v.

United States Department of Agriculture and  
United States of America,

Respondents

**BEFORE:** Brown\*, Circuit Judges; Edwards and Randolph, Senior Circuit  
Judges

**ORDER**

Upon consideration of respondents' petition for rehearing, it is

**ORDERED**, that the petition be granted as to the qualification of the factual statements on page 7 of the opinion and denied as to the references to Quinn v. Butz, 510 F.2d 743 (D.C. Cir. 1975). It is

**FURTHER ORDERED** that the opinion of the court issued on January 7, 2011, be amended as follows:

Page 7, ¶ 1, Lines 12-14: Delete "And the board, not company officers or managers, made all decisions governing the company's bills, capital expenditures, and personnel. *Id.* at 146-49, 1 J.A. 96-99. . . ." and insert in lieu thereof "And there is evidence that the board, not company officers or managers, made all decisions governing the company's bills, capital expenditures, and personnel. *Id.* at 146-49, 1 J.A. 96-99."

Page 7, ¶ 2, Lines 1-4: Delete "And even though they carried "officer" titles at Fresh America, neither Taylor nor Finberg had any measurable power or authority in board deliberations. . . ." and insert in lieu thereof "And even though they carried "officer" titles at Fresh America, there is evidence that neither Taylor nor Finberg had any measurable power or authority in board deliberations. (Emphasis added.)"

**Per Curiam**

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY: /s/  
Jennifer M. Clark  
Deputy Clerk

\* Circuit Judge Brown did not participate in this matter.