

TURTLE ISLAND FOODS,  
SPC, ET AL.,  
  
Plaintiffs,  
  
v.  
  
MARK RICHARDSON,  
  
Defendant.

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enforcement of the statute, a declaration that the statute is unconstitutional on its face and as applied to plaintiffs and an award of costs and attorneys' fees. Plaintiff's stated that because they sought only injunctive and declaratory relief against unconstitutional application of the statute, the proposed class satisfied Fed.R.Civ.P. 23(b). The Court agreed and found that because plaintiffs were challenging the constitutionality of the statute and because all 115 prosecuting attorneys in Missouri were charged with prosecuting violations of this statute and defending its constitutionality, plaintiffs met the requirements to certify the Missouri Prosecuting Attorneys as a defendant class under Fed.R.Civ.P. 23(b)(2). However, the Court denied plaintiffs Motion for a preliminary injunction, finding that none of the Dataphase Sys., Inc. v. C.L. Sys., Inc., 640 F.2d 109 (8<sup>th</sup> Cir. 1981) factors supported entry of an injunction. On October 2, 2019, plaintiffs appealed this Court's denial of their motion for preliminary injunction. On October 8, 2019, the parties jointly requested a stay of the current proceedings pending the outcome of the appellate proceedings. On December 11, 2019, the Eighth Circuit denied plaintiffs permission for leave to appeal. Accordingly, the Court hereby **DENIES AS MOOT** the Joint Motion to Stay Proceedings (Doc. # 70). The parties are hereby directed to confer regarding dates for an Amended Scheduling Order and may submit a proposal for an Amended Scheduling Order on or before **February 24, 2020**.

Date: February 10, 2020  
Kansas City, Missouri

**S/ FERNANDO J. GAITAN, JR.**  
Fernando J. Gaitan, Jr.  
United States District Judge