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California Department of Food and Agriculture, Dr.
Tomás J. Aragón, in his official capacity as Director
of the California Department of Public Health, and
Rob Bonta, in his official capacity as Attorney
General of California*

Exempt from filing fee per
Gov. Code, § 6103

FILED / ENDORSED
JUN 16 2023
By K. Swift, Deputy Clerk
K. Swift

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO

**CALIFORNIA HISPANIC CHAMBERS
OF COMMERCE; KRUSE & SON, INC.;**
**CALIFORNIA GROCERS
ASSOCIATION; CALIFORNIA
RESTAURANT ASSOCIATION; and
CALIFORNIA RETAILERS
ASSOCIATION,**

Case No. 34-2021-80003765

**JOINT STIPULATION OF ALL
PARTIES REQUESTING FURTHER
LIMITED MODIFICATION OF
FEBRUARY 2, 2022 JUDGMENT AND
WRIT OF MANDATE**

Petitioners and Plaintiffs,

Dept: 32
Judge: The Honorable James Arguelles

v.

Action Filed: November 10, 2021

**KAREN ROSS, in her official capacity as
Secretary of the California Department of
Food and Agriculture; TOMÁS J.
ARAGÓN, in his official capacity as
Director of the California Department of
Public Health; ROB BONTA, in his official
capacity as Attorney General of the State of
California; and ANNE MARIE
SCHUBERT, in her official capacity as the
District Attorney of the County of
Sacramento,**

Respondents and Defendants.

1 **JOINT STIPULATION OF ALL PARTIES**

2 Petitioners and Plaintiffs California Hispanic Chambers of Commerce, Kruse & Son, Inc.,
3 California Grocers Association, California Restaurant Association, and California Retailers
4 Association, and Respondents and Defendants Karen Ross, in her official capacity as the
5 Secretary of the California Department of Food and Agriculture, Tomás J. Aragón, in his official
6 capacity as the Director of the California Department of Public Health, Rob Bonta, in his official
7 capacity as the Attorney General of the State of California, and Anne Marie Schubert, in her
8 official capacity as the District Attorney of the County of Sacramento, respectfully submit this
9 Joint Stipulation of All Parties requesting that the February 2, 2022 Judgment and the
10 accompanying Prohibitory Writ of Mandate, as modified by the Court’s November 28, 2022
11 Order, be further modified in a limited capacity with respect to noncompliant whole pork meat in
12 the possession of specified entities as of July 1, 2023, when the existing injunction against
13 enforcement is set to expire.

14 As grounds for this Stipulation, the Parties state as follows:

15 1. Proposition 12 is a statewide statutory initiative measure that establishes standards of
16 confinement for certain farm animals, including breeding pigs. (See Health & Saf. Code,
17 §§ 25990 et seq.) Under the measure, the State was required to adopt implementing regulations
18 by September 1, 2019, and the provisions relating to the confinement of breeding pigs were
19 scheduled to go into effect on January 1, 2022. (Id., §§ 25991(e)(3), 25993(a).)

20 2. In late 2021, shortly before the statute’s provisions relating to the confinement of
21 breeding pigs were scheduled to go into effect, the State had not yet adopted implementing
22 regulations. For that reason, Petitioners filed this action seeking a temporary delay of the
23 enforcement of Proposition 12’s provisions relating to the sale of whole pork meat in California.

24 3. After briefing and a hearing on January 21, 2022, the Court granted, in part,
25 Petitioners’ request for a prohibitory writ of mandate and declaratory relief, entered a Judgment
26 on February 2, 2022, and issued a Prohibitory Writ of Mandate on February 24, 2022.

27 Specifically, the Court “enter[ed] a declaration that the prohibition on intrastate sales of whole
28 pork meat (whether originating within or outside California) pursuant to Health and Safety Code

1 Sections 25990(b)(2) and 25991(e)(3) is not enforceable until 180 days after final regulations are
2 enacted pursuant to Section 25993(a)” and further “enjoin[ed] Attorney General Bonta, District
3 Attorney S[c]hubert, district attorneys statewide and city attorneys statewide from enforcing the
4 prohibition on intrastate sales of whole pork meat (whether originating within or outside
5 California) pursuant to Health and Safety Code Sections 25990(b)(2) and 25991(e)(3) until 180
6 days after final regulations are enacted pursuant to Section 25993(a).” The Court “denie[d
7 Petitioners’] request for a writ enjoining the same public prosecutors for a longer period of
8 time[.]” (Judgment, ¶ 1; Prohibitory Writ of Mandate at 2.)

9 4. In its Judgment, the Court expressly retained jurisdiction over this matter “to modify
10 the relief granted in light of changing circumstances.” (Judgment, ¶ 2.) Correspondingly, the
11 Court included in its Order a provision permitting the parties to return to the Court “for any
12 appropriate adjustment” to the 180-day period. (Feb. 2, 2022 Amended Final Order at 10.)

13 5. After this Court ruled, the United States Supreme Court granted certiorari in *National*
14 *Pork Producers Council v. Ross* (March 28, 2022) 142 S. Ct. 1413, to determine whether
15 petitioners National Pork Producers Council and American Farm Bureau Federation stated a
16 claim that Proposition 12 violates the dormant Commerce Clause of the United States
17 Constitution.

18 6. The State adopted final regulations implementing Proposition 12 on September 1,
19 2022. (See Cal. Code Regs., tit. 3, §§ 1320-1327.3.) Those regulations took immediate effect,
20 thereby triggering the start of the remaining 180 days of the injunction against enforcement that
21 the Court granted in its Judgment and the Prohibitory Writ of Mandate. Accordingly, the
22 injunction against enforcement was due to expire on February 28, 2023.

23 7. Whereas the injunction against enforcement was due to expire on February 28, 2023,
24 and whereas *National Pork Producers Council v. Ross* was still pending before the U.S. Supreme
25 Court and could have resulted in a decision that would generate controlling law that could have
26 impacted Proposition 12’s implementation and enforcement, the parties stipulated to an extension
27 of the Court’s initial injunction, from February 28, 2023 to July 1, 2023. The Court entered an
28 order reflecting the parties’ stipulation on November 28, 2022, and continued to retain

1 jurisdiction over this matter to further modify the relief granted in light of changing
2 circumstances.

3 8. The State has appealed the Court's decision in this matter, filing a Notice of Appeal
4 on February 18, 2022, and initiating Case No. C095799 in the Third District Court of Appeal.
5 However, on November 7, 2022, prior to filing any briefing on the merits, the State filed a request
6 with the Court of Appeal asking that the appeal in this case be held in abeyance, which the
7 Petitioners did not oppose. The Court of Appeal granted the State's request, in part, staying
8 briefing in the matter until February 28, 2023, with a status update due to the Court by February
9 1, 2023.

10 9. The State requested, and was granted, two additional stays in its pending appeal in the
11 Third District Court of Appeal while *National Pork Producers Council v. Ross* was pending in
12 the U.S. Supreme Court. At present, a status update is due to the Court on June 15, 2023, and
13 briefing is due on July 3, 2023.

14 10. On May 11, 2023, the U.S. Supreme Court issued its decision in *National Pork*
15 *Producers Council v. Ross*, upholding the constitutionality of Proposition 12.

16 11. The declaratory and injunctive relief against enforcement of the prohibition on
17 intrastate sales of whole pork meat pursuant to Health and Safety Code Sections 25990(b)(2) and
18 25991(e)(3), as imposed by the Court in its February 2, 2022, Judgment and Prohibitory Writ of
19 Mandate, and as modified by the Court's November 28, 2022 Order, is set to expire on July 1,
20 2023.

21 12. Following the U.S. Supreme Court's decision in *National Pork Producers Council v.*
22 *Ross*, the California Department of Food and Agriculture (CDFA)'s Animal Care Program issued
23 a guidance document entitled: *Guidance: Questions and Answers Related to Pork Sales in the*
24 *Wake of the 2023 Supreme Court Decision.*¹ In that document, CDFA explained that, with
25 respect to noncompliant whole pork meat in inventory that was purchased prior to July 1, 2023, it
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27
28 ¹ Available at: https://www.cdfa.ca.gov/AHFSS/AnimalCare/docs/sales_wakeofsupremecourt_decision.pdf (as of June 13, 2023).

1 did not intend to focus its limited implementation resources in the remainder of 2023 on covered
2 products already in commerce:

3 **What do I do with noncompliant whole pork meat in inventory that was**
4 **purchased prior to July 1, 2023?**

5 We recognize that current inventory is transient and as purchases of compliant
6 products begin to be made after July 1, 2023, pork products in current stocks will
7 eventually be cleared from freezers and retail stores in California. CDFA understands
8 that there will necessarily be a period of transition. CDFA reiterates that for the
9 remainder of 2023, we intend to focus our limited implementation resources, not on
covered products already in commerce, but rather on 1) outreach to ensure that all
distributors who are required to register do so; 2) accreditation of third-party
certifying agents so that when third-party certification is required for producers and
distributor registrations beginning on January 1, 2024, producers and distributors
have more options; and 3) certification of producers and distributors.

10 In accordance with CDFA's guidance, THE PARTIES HEREBY STIPULATE AND
11 AGREE AS FOLLOWS:

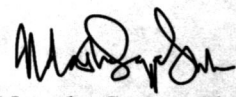
- 12 1. The declaratory and injunctive relief imposed by the Court in its February 2, 2022
13 Judgment and Prohibitory Writ of Mandate, as modified by the Court's November 28, 2022
14 Order, will expire on July 1, 2023, except with respect to noncompliant whole pork meat that:
- 15 a. as of July 1, 2023, is in the possession of an "end user" (Cal. Code Regs., tit. 3,
16 § 1322, subd. (o)) or a "pork distributor" (*id.*, subd. (t)) or on the premises of an
17 establishment at which mandatory inspection is provided under the Federal
18 Meat Inspection Act (21 U.S.C. Sec. 601 et seq.) and that holds an
19 establishment number (prefix "M") granted by the Food Safety Inspection
20 Service of the United States Department of Agriculture ("federally-inspected
21 entity");
 - 22 b. is self-certified by the end user, pork distributor, or other federally-inspected
23 entity to have been in their possession or was in the possession of another end
24 user, pork distributor, or other federally-inspected entity as of July 1, 2023; and
 - 25 c. is ultimately sold, transferred, exported, or donated on or before December 31,
26 2023.

27 2. The stipulated injunction shall terminate, and the case shall be dismissed, with
28 prejudice, at 11:59 p.m. on December 31, 2023, without further order of the court.

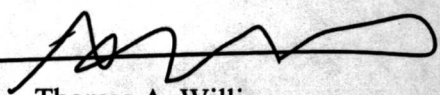
1 3. Plaintiffs affirmatively waive any right to seek further relief against enforcement of
2 Proposition 12 in this case.

3 Dated: June 15, 2023

Respectfully Submitted,
ROB BONTA
Attorney General of California
R. MATTHEW WISE
Supervising Deputy Attorney General

7
8 By: 
9 Natasha Saggar Sheth
10 Deputy Attorney General
11 Attorneys for State Respondents and
12 Defendants

11 Dated: June 15, 2023

OLSON REMCHO, LLP
13 By: 
14 Thomas A. Willis
15 Attorneys for Petitioners and Plaintiffs

16 Dated: June __, 2023

OFFICE OF THE SACRAMENTO
COUNTY COUNSEL
18 By:
19 Krista Whitman
20 Assistant County Counsel
21 Attorneys for Respondent and Defendant
22 Anne Marie Schubert

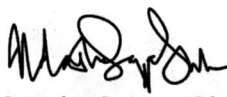
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3. Plaintiffs affirmatively waive any right to seek further relief against enforcement of Proposition 12 in this case.

Dated: June 15, 2023

Respectfully Submitted,
ROB BONTA
Attorney General of California
R. MATTHEW WISE
Supervising Deputy Attorney General

By: 
Natasha Saggur Sheth
Deputy Attorney General
Attorneys for State Respondents and Defendants

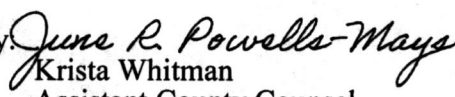
Dated: June __, 2023

OLSON REMCHO, LLP

By: Thomas A. Willis
Attorneys for Petitioners and Plaintiffs

Dated: June 16, 2023

OFFICE OF THE SACRAMENTO
COUNTY COUNSEL

By:  for
Krista Whitman
Assistant County Counsel
*Attorneys for Respondent and Defendant
Anne Marie Schubert*

1 ~~PROPOSED~~ ORDER

2 Based on the foregoing, and good cause appearing, IT IS HEREBY ORDERED, in
3 accordance with the parties' stipulation set forth above:

- 4 1. The declaratory and injunctive relief imposed by the Court in its February 2, 2022
5 Judgment and Prohibitory Writ of Mandate, as modified by the Court's November
6 28, 2022 Order, will expire on July 1, 2023, except with respect to noncompliant
7 whole pork meat that:
- 8 a. as of July 1, 2023, is in the possession of an "end user" (Cal. Code Regs., tit. 3,
9 § 1322, subd. (o)) or a "pork distributor" (*id.*, subd. (t)) or on the premises of an
10 establishment at which mandatory inspection is provided under the Federal
11 Meat Inspection Act (21 U.S.C. Sec. 601 et seq.) and that holds an
12 establishment number (prefix "M") granted by the Food Safety Inspection
13 Service of the United States Department of Agriculture ("federally-inspected
14 entity");
 - 15 b. is self-certified by the end user, pork distributor, or other federally-inspected
16 entity to have been in their possession or was in the possession of another end
17 user, pork distributor, or other federally-inspected entity as of July 1, 2023; and
 - 18 c. is ultimately sold, transferred, exported, or donated on or before December 31,
19 2023.
- 20 2. The stipulated injunction shall terminate, and the case shall be dismissed, with
21 prejudice, at 11:59 p.m. on December 31, 2023, without further order of the court.
- 22 3. Plaintiffs affirmatively waive any right to seek further relief against enforcement of
23 Proposition 12 in this case.

24
25 DATED: 16 Jun 2023



26 THE HON. JAMES P. ARGUELLES
27 JUDGE OF THE SUPERIOR COURT
28

DECLARATION OF SERVICE BY E-MAIL

Case Name: ***California Hispanic Chambers of Commerce, et al. v. Karen Ross, et al.***
Case No.: **34-2021-80003765**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter.

On June 16, 2023, I served the attached **JOINT STIPULATION OF ALL PARTIES REQUESTING FURTHER LIMITED MODIFICATION OF FEBRUARY 2, 2022 JUDGMENT AND WRIT OF MANDATE** by transmitting a true copy via electronic mail. In addition, I placed a true copy thereof enclosed in a sealed envelope, in the internal mail system of the Office of the Attorney General, addressed as follows:

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maysj@saccounty.gov

Attorneys for Respondent Anne Marie Schubert, District Attorney of the County of Sacramento

Attorneys for Plaintiffs

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on June 16, 2023, at San Francisco, California.

M. Mendiola
Declarant

M. Mendiola
Signature