

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

TRIUMPH FOODS, LLC, CHRISTENSEN FARMS MIDWEST, LLC, THE HANOR COMPANY OF WISCONSIN, LLC, NEW FASHION PORK, LLP, EICHELBERGER FARMS, INC., and ALLIED PRODUCERS' COOPERATIVE, individually and on behalf of its members,

Plaintiffs,

v.

ANDREA JOY CAMPBELL, in her official capacity as Attorney General of Massachusetts, and ASHLEY RANDLE, in her official capacity as Massachusetts Commissioner of Agriculture,

Defendants.

CIVIL ACTION  
NO. 1:23-cv-11671-WGY

**DEFENDANTS' MOTION TO DISMISS THE COMPLAINT**

Defendants, Andrea Joy Campbell, in her official capacity as Attorney General of Massachusetts, and Ashley Randle, in her official capacity as Massachusetts Commissioner of Agriculture, hereby move to dismiss the Plaintiffs' complaint under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).

There are no triable issues of fact in this case. Plaintiffs' central claim is a dormant Commerce Claim that the Supreme Court rejected only months ago on review of a Rule 12(b)(6) dismissal of a complaint challenging a California law almost identical in all relevant respects to the Massachusetts law now under review. *See Nat'l Pork Producers Council v. Ross*, 143 S. Ct. 1142 (2023). The remaining claims are meritless as a matter of law.

For the reasons stated in Defendants' Memorandum in Support of Their Motion to

Dismiss the Complaint, which Defendants respectfully incorporate herein, the Plaintiffs (1) have failed to state any claim for relief, Fed. R. Civ. Pro. 12(b)(6), and (2) have failed to establish the Court's subject-matter jurisdiction over Count X, which is barred by the Eleventh Amendment, Fed. R. Civ. Pro. 12(b)(1).

WHEREFORE, the Defendants respectfully request that the Court:

1. Grant Defendants' Motion to Dismiss and dismiss the complaint; and/or and
2. Grant any other or further relief the Court deems appropriate.

Respectfully submitted,

ANDREA JOY CAMPBELL, in her official capacity as Attorney General of Massachusetts, and

ASHLEY RANDLE, in her official capacity as Commissioner of the Massachusetts Department of Agricultural Resources,

By their attorneys,

/s/ Grace Gohlke

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Dated: September 28, 2023

### LOCAL RULE 7.1 CERTIFICATION

I hereby certify that prior to filing this motion I conferred with opposing counsel on September 28, 2023, and was unable to resolve or narrow the issue.

/s/ Grace Gohlke  
Grace Gohlke  
Assistant Attorney General

### CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants.

/s/ Grace Gohlke  
Grace Gohlke

Dated: September 28, 2023