

**IN THE UNITED STATES DISTRICT COURT
FOR THE 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.

Case No. 1:23-cv-11671-WGY

**PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT,
EXPEDITED BRIEFING SCHEDULE
AND ORAL ARGUMENT**

Plaintiffs Triumph Foods, LLC ("Triumph"), together with Christensen Farms Midwest, LLC ("Christensen Farms"), The Hanor Company of Wisconsin, LLC ("Hanor"), New Fashion Pork, LLP ("NFP"), Eichelberger Farms, Inc. ("Eichelberger"), and Allied Producers' Cooperative ("APC"), both in its official capacity and on behalf of their members (collectively, "Plaintiffs"), by and through their counsel of record, respectfully request that the Court grant partial summary judgment on Plaintiffs' dormant Commerce Clause Claim pursuant to Federal Rule of Civil Procedure 56 and Local Rule 56.1. This Motion is based upon the accompanying Memorandum and Concise Statement of Facts for which there is no genuine issue to be tried. Plaintiffs concurrently with this Motion have submitted a Request for Judicial Notice with accompanying exhibits.

REQUEST FOR ORAL ARGUMENT AND EXPEDITED BRIEFING SCHEDULE

Plaintiffs hereby, pursuant to Local Rule 7.1(b)(2), request this Court enter an expedited

briefing schedule for Defendants' response. Specifically, Plaintiffs assert the Defendants should be required to submit an opposition brief on or before November 3, 2023, at 6:00 p.m. (ET). Plaintiffs anticipate seeking leave from this Court to file a concise Reply Memorandum in Support of Plaintiffs' Motion for Partial Summary Judgment. Plaintiffs also request, pursuant to Local Rule 7.1(d), for this Court fix a time and place for oral argument upon Plaintiffs' Motion upon the Parties' further conference with this Court's Deputy Clerk to set an agreed-upon date for an in person oral argument.

WHEREFORE, for the reasons set forth in Plaintiffs' Memorandum in Support of Motion for Partial Summary Judgment and Concise Statement of Undisputed Facts, Plaintiffs respectfully request this Court grant their Motion for Partial Summary Judgment and enter judgment in their favor on Plaintiffs' dormant Commerce Clause Claim.

Dated: October 27, 2023

TRIUMPH FOODS, LLC, CHRISTENSEN FARMS MIDWEST LLC, THE HANOR COMPANY OF WISCONSIN, LLC, NEW FASHION PORK, LLP, EICHELBERGER FARMS, INC., and ALLIED PRODUCERS' COOPERATIVE, Plaintiffs.

By: /s/ Michael Raupp

Robert L. Peabody
MA #551936, NY #1990654
HUSCH BLACKWELL LLP
One Beacon Street, Suite 1320
Boston, Massachusetts 02108
Telephone: (617) 720-5090
Facsimile: (617) 720-5092
robert.peabody@huschblackwell.com

Cynthia L. Cordes (*admitted pro hac vice*)
Ryann A. Glenn (*admitted pro hac vice*)

Michael Raupp (*admitted pro hac vice*)
HUSCH BLACKWELL LLP
4801 Main Street, Suite 1000
Kansas City, MO 64112
Telephone: (816) 983-8381
Facsimile: (816) 983-8080
cynthia.cordes@huschblackwell.com
ryann.glenn@huschblackwell.com
michael.raupp@huschblackwell.com
Attorneys for Plaintiffs

CERTIFICATE PURSUANT TO LOCAL RULE 7.1.(a)(2)

I certify that, on October 26, 2023, I conferred with Defendants' counsel and attempted in good faith to reach agreement on this motion but was unable to reach a resolution.

/s/ Michael Raupp _____

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 27th day of October 2023, the foregoing document was electronically filed with Clerk of the Court using the CM/ECF system which sent electronic notification of such filing to all CM/ECF Participants.

/s/ Michael Raupp _____