CASE NO. 22-55336

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

IOWA PORK PRODUCERS ASSOCIATION,
Plaintiff-Appellant,
v.
ROB BONTA, in his official capacity as Attorney General of California, et al.,
Defendant-Appellees,

HUMANE SOCIETY OF THE UNITED STATES, et al.,
Intervenor-Appellees.

On Appeal from the United States District Court
for the Central District of California
The Honorable Christina A. Snyder, Judge Presiding
No. 2:21-cv-09940-CAS-AFM

APPELLANT'S MOTION TO LIFT STAY AND OPPOSED MOTION TO EXPEDITE UNDER NINTH CIRCUIT RULE 27-12
(DECISION REQUESTED BY JULY 1, 2023)

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INTRODUCTION

In this appeal, Appellant Iowa Pork Producers Association ("IPPA")[1] challenges the legality and constitutionality of Proposition 12, a California state law placing arbitrary and vague confinement requirements on farmers selling pork to California consumers. But for the past year, this appeal has been stayed pending the Supreme Court's decision in *National Pork Producers Council v. Ross*, No. 21-468, 2023 WL 3356528 (U.S. May 11, 2023) (the "*NPPC* Opinion" or "*NPPC*"), which solely involved a dormant Commerce Clause challenge to Proposition 12 based upon the Extraterritoriality Doctrine and the substantial burden balancing analysis set forth in *Pike v. Bruce Church*, 397 U.S. 137 (1970).

On May 11th, the Supreme Court held in a fractured 5-4 decision that the National Pork Producers Council (the "NPPC petitioners" or "NPPC") failed to state a claim that Proposition 12 violates the dormant Commerce Clause in the manner plead in NPPC's Complaint, thus affirming this Court's ruling. However, in no way has the *NPPC* Opinion wholly resolved the legal issues presented in *this* appeal. While IPPA also challenges the legality and constitutionality of Proposition 12, it does so on several different grounds than those presented and analyzed in *NPPC*. IPPA makes several other claims not even implicated by *NPPC*, including arguments

[1]Appellant IPPA is a trade association with more than 4,000 affiliated and associate members that produce, pack, and sell pork into California.

that Proposition 12 violates the Due Process Clause, the Privileges and Immunities Clause, and is preempted by the Packers and Stockyards Act. And, in direct contrast to the dormant Commerce Clause claim in *NPPC*, IPPA directly alleges that Proposition 12 does discriminate against out-of-state producers of pork. Because the NPPC Opinion did not resolve any one of these arguments—and in many ways, provides *support* for these arguments—IPPA moves to lift the appellate stay previously ordered in this case so that this Court may consider the merits of IPPA's arguments.

Furthermore, IPPA moves to expedite this appeal under Ninth Circuit Rule 27-12. In a parallel state lawsuit brought by unrelated entities also challenging Proposition 12, the state court entered a prohibitory writ of mandate staying enforcement of Proposition 12 for 180 days following implementation of the final regulations that were several years late. *See Cal. Hisp. Chambers of Com. v. Karen Ross*, No. 34-2021-80003765 (Cal. Sup. Ct. Nov. 28, 2022) (the "CHCC Order"). California ultimately agreed to extend the date of the stay of enforcement set forth in the CHCC Order pending the outcome of *NPPC* through July 1, 2023. But now that the *NPPC* Opinion has been issued, California has not agreed to further extend the CHCC Order stipulation. California's position is that even the remaining relief from the CHCC Order through July 1 never applied to the turn-around provisions of Prop 12, and that these provisions can be enforced *immediately*. *See* ECF No. 069,

fn 16. Yet, the pork industry has relied on this CHCC Order for relief from any type of enforcement of Proposition 12 in its entirety. California's position on turn-around being in effect and the ability to enforce the square footage requirements beginning July 1, 2023, will imminently lead to halted sales and/the risk of civil and criminal enforcement actions of non-compliant whole pork meat.

Without further action from this Court, Proposition 12 leaves the entire pork supply chain in a state of emergency and inflicts irreparable harm to not only producers, processors, retailers, and pork consumers nationwide, but also to the wellbeing of the breeding pigs currently being raised. Further, there has been no guidance provided by California concerning whether whole pork meat already born, raised and ready for harvesting prior to July 1, 2023, may enter the marketplace in light of the CHCC Order. What ultimately will result is a pork shortage across the state of California of at least 73.33%, ultimately affecting the price of pork across the country as a result of an increase in non-compliant pork outside of California. Tonsor Decl., ¶¶ 24 -32, ECF No. 24-3.

In short, unless this appeal is afforded an expedited process, Proposition 12's confinement requirements will upend the entire pork industry and have unfair and direct, unrepairable ramifications on California businesses and organizations. Consequently, IPPA respectfully requests that this Court expedite this appeal so that

it may be resolved as soon as possible, or at least by July 1, 2023, if this Court's schedule allows.

BACKGROUND

I. California Passes Proposition 12

On November 6, 2018, California passed a ballot initiative known as Proposition 12, which prohibits persons from "engaging in the sale" in California of "whole pork meat" that a seller "knows or should know is the meat of a covered animal who was confined in a cruel manner, or is the meat of the immediate offspring of a covered animal that was confined in a cruel manner." Cal. Health & Safety Code § 25990(b)(2). Unlike a prior ballot initiative known as Proposition 2, Proposition 12 is not limited to California producers; by its own text, it requires all out-of-state pork producers to comply with Proposition 12 or face potential civil and criminal penalties. *Id.* at §§ 25990(b)(2), 25993(b).

Those civil and criminal penalties are putting IPPA members at imminent risk of criminal prosecution and substantial civil fines. Specifically, Proposition 12 imposes the threat of *criminal* prosecution on any "person who violates any of the provisions of this chapter" and subjects those persons to a fine of up to $1,000 or up to 180 days in county jail, or both. Cal. Health & Safety Code § 25993(b). Any district attorney or local prosecutor and the Attorney General's Office can prosecute

those who sell whole pork meat that is raised in a manner not compliant with Proposition 12. *See id.*

II. Appellant IPPA files suit to challenge Proposition 12

IPPA filed suit in California state court on November 9, 2021, seeking to enjoin California officials from enforcing Proposition 12. Specifically, IPPA brought facial and as-applied due process claims, asserted violations of the Privileges and Immunities Clause, and argued that Proposition 12 was preempted by the Packers and Stockyards Act, 7 U.S.C. § 192(b). First Am. Compl. ¶¶ 125-230, ECF No. 23.[2] It also argued that Proposition 12 violated the dormant Commerce Clause. *Id.* IPPA moved for a preliminary injunction barring enforcement of Proposition 12, providing evidence of the nationwide regulatory impact Proposition 12 would have across the pork industry separately and in addition to focusing solely on the immense financial burden that Proposition 12 would have on the pork producers who would be forced to come into compliance. ECF No. 24; *see also* Salak-Johnson Decl., ECF No. 24-2; Tonsor Decl., ECF No. 24-3; McGonegle Decl., ECF No. 24-4. While the motion for a preliminary injunction was pending, California moved to dismiss the case. ECF No. 51.

[2]Unless otherwise noted, all references are to the district court docket in *Iowa Pork Producers Association v. Rob Bonta*, 2:21-CV-09940 (C.D. Cal.).

After briefing and hearing, the district court concurrently denied the motion for preliminary injunction and granted the motion to dismiss. *See* ECF Nos. 83, 84. Specifically, the district court considered and rejected IPPA's arguments regarding the likelihood of success on the merits. ECF No. 84. The district court also dismissed IPPA's Privileges and Immunities Clause claim and preemption claim under the Packers and Stockyards Act. ECF No. 83.

IPPA appealed both the denial of its motion for preliminary injunction and the dismissal. ECF No. 88. On April 29, 2022, California moved to stay appellate proceedings pending the outcome of *National Pork Producers Council v. Ross*, Sup. Ct. Dkt. No. 21-468, a case solely involving two narrow dormant Commerce Clause challenges to Proposition 12 in the manner noted previously. Appellate Dkt., ECF No. 8. Over IPPA's opposition, this Court granted the motion and stayed these proceedings. ECF No. 94.

III. California State Litigation and Writ of Mandate

During this time, parallel litigation was also occurring in California state court with respect to Proposition 12. Specifically, a group of meat processors and associated businesses challenged the immediate enforcement of Proposition 12, arguing that compliance should not be required until California had issued final regulations governing the enforcement of Proposition 12. *Cal. Hisp. Chambers of Com. v. Ross*, No. 34-2021-80003765 (Cal. Sup. Ct.). On February 2, 2022, the state

trial court held that "the promulgation of joint regulations is a condition precedent to the enforcement of" Proposition 12, and accordingly entered judgment in favor of the petitioners. On February 24, 2022, the same court issued a prohibitory writ of mandate barring enforcement of certain provisions of Proposition 12 until 180 days after the final regulations were enacted. *See* Jensen Decl. Ex. 1 at 17, ECF No. 79-1.

California enacted its final regulations for Proposition 12 on September 1, 2022, thereby triggering the start of the 180-day stay of enforcement. Cal. Code Regs. tit. 3, §§ 1320-1327.3. However, in light of the Supreme Court's impending decision in *NPPC*, on November 21, 2022, the state court approved and entered a stipulated order extending the prohibitory writ of mandate until July 1, 2023. *See* CHCC Order. Accordingly, California cannot begin enforcement of certain provisions of Proposition 12 through imposition of civil and criminal penalties until July 2, 2023. As set forth in IPPA's district court briefing, this does *little* to help out-of-state-producers who may be non-compliant with the entirety of Proposition 12, including the separate turn-around requirements. ECF No. 79. Despite the stay of enforcement being extended until July 1, 2023, there has been *no guidance* issued by the Defendants-Appellees or separate order issued concerning whether breeding pigs or the offspring of those pigs already in the supply chain through gestation,

farrowing or weaning can be sold into California if non-compliant prior to July 1, 2023.

IV. *National Pork Producers Council v. Ross*

Last Thursday the Supreme Court of the United States issued its decision in *NPPC*, affirming the dismissal of NPPC's litigation challenging Proposition 12. However, this opinion was limited. First and foremost, the Supreme Court explicitly recognized that for purposes of the dormant Commerce Clause claim, the petitioners had failed to make and even "*disavow[ed]* any discrimination-based claim" and had conceded that Proposition 12 imposes the same burdens on in-state pork producers that it imposes on out-of-state producers. *NPPC*, 2023 WL 3356528, at *8. As a result, the Supreme Court did not render any decision on the merits of whether a discrimination-based claim under the dormant Commerce Clause would succeed, as that issue was not presented to the Court, thus leaving the door open for such a challenge to Proposition 12. *Id.*

The Supreme Court then turned to the petitioners' two narrow theories for why Proposition 12 violated the dormant Commerce Clause: (1) the Extraterritoriality Doctrine, and (2) the substantial burden balancing test articulated in *Pike v. Bruce Church, Inc.*, 397 U.S. 137 (1970). The plurality of the Court found that neither claim was sufficient for determining a violation of the dormant Commerce Clause. First, the Court held that Proposition 12 did not violate the

principles of the Extraterritoriality Doctrine as plead by the NPPC petitioners. Proposition 12 did not create any "*specific* impermissible 'extraterritorial effect'" that "deliberately 'prevent[ed out-of-state firms] from undertaking competitive pricing' or 'deprive[d] businesses and consumers in other States of whatever competitive advantages they may possess.'" *Id.* at *9 (quoting *Healy v. Beer Inst.*, 491 U.S. 324, 338–39 (1989)).

The Court then authored several fractured opinions concerning the applicability of *Pike v. Bruce Church, Inc.*, 397 U.S. 137 (1970). In *Pike*, the Supreme Court held that an order requiring that cantaloupes grown in the state of Arizona be processed and packed within the state of Arizona violated the dormant Commerce Clause. The Court held that even if the order could be fairly characterized as facially neutral, the order required business operations to be performed in the state that could be more efficiently performed elsewhere. In short, the "practical effects" of the order "revealed a discriminatory purpose," i.e., "an effort to insulate in-state processing and packaging business from out-of-state competition." *Id.* at *11. Thus, the NPPC petitioners argued that under *Pike*, "a court must at least assess 'the burden imposed on interstate commerce' by a state law and prevent its enforcement if the law's burdens are 'clearly excessive in relation to the putative local benefits.'" *Id.* at *10. NPPC then provided a list of reasons why the benefits Proposition 12 secures

for Californians did not outweigh the costs it imposed on out-of-state economic interests. *Id*.

The Supreme Court disagreed with NPPC's articulated theory under *Pike*. It emphasized that NPPC had disavowed any claim that Proposition 12 discriminated on its face, and thus reasoned that any claim under *Pike* must fit within the narrow range of cases where a law's practical effects "would disclose purposeful discrimination against out-of-state businesses." *Id.* at *11.

It is here the Court's reasoning fractured. Writing only for himself and two other Justices, Justice Gorsuch reasoned that the NPPC petitioners were reading *Pike* as "authorizing judges to strike down duly enacted laws regulating the in-state sale of ordinary consumer goods (like pork) based on nothing more than their own assessment of the relevant law's 'costs' and 'benefits,'" which the Court simply could not do. *Id.* at *12. Justice Gorsuch reasoned that "judges are often 'not institutionally suited to draw reliable conclusions of the kind that would be necessary . . . to satisfy [the] *Pike*' test as petitioners conceive it" and that specifically, the Court could not be asked to compare the "cost" side versus the non-economic interest side of Proposition 12. *Id.* at *12–13.

Then, writing for himself and three other Justices, Justice Gorsuch reasoned that *Pike* requires a plaintiff to plead facts plausibly showing that a challenged law imposes "substantial burdens" on interstate commerce *before* a court may assess the

law's competing benefits or weigh the two sides against each other. *Id.* at *14. Here, the petitioners had failed to do so, as Justice Gorsuch opined that NPPC could segregate their operations to ensure pork products entering California meet Proposition 12's standards, or could simply withdraw from California's market. *Id.* at *14. Consequently, the Supreme Court found that the petitioners failed to "plausibly" suggest a substantial harm to interstate commerce and therefore, the claim was properly dismissed. *Id.*

Thus, the NPPC petitioners only asked the Court to analyze whether Proposition 12 violated the dormant Commerce Clause without consideration of its discriminatory purpose and effect toward out of state pork producers—a theory that IPPA has specifically alleged and remains the heart of its dormant Commerce Clause challenges. Nor did *NPPC* touch on any of the alternative theories that IPPA has pursued in this case, including challenges to Proposition 12 under the Due Process Clause, both facially and as applied to Appellant's members; that Proposition 12 violates the Privileges & Immunities Clause; and that Proposition 12 is preempted by the Packers and Stockyards Act, 7 U.S.C. § 192(b). Each of these arguments was duly considered below by the district court and are separate and independent from the dormant Commerce Clause issues analyzed by *NPPC*.

ARGUMENT

As *NPPC* has now been issued, this Court should terminate the appellate stay and allow the case to move forward. Furthermore, this Court should allow this appeal to move forward in an expedited manner. Under Ninth Circuit Rule 27-12, expedited treatment is warranted "upon a showing of good cause." 9th Cir. R. 27-12. "Good cause" is defined as, but not limited to, "situations in which . . . in the absence of expedited treatment, irreparable harm may occur or the appeal may become moot." *Id.* Here, good cause exists, as IPPA and its members will suffer irreparable harm absent such expedited treatment.

The Ninth Circuit has routinely treated appeals from denials of preliminary injunctions[3] in an expedited manner when the types of harm alleged are irreparable, immediate, or of significant nature to the petitioner. *See, e.g.*, *City of Tenakee Springs v. Clough*, 915 F.2d 1308, 1310 (9th Cir. 1990) (hearing an appeal on an expedited basis that involved logging operations that would have prevented the petitioning Native American tribes from sustaining themselves by hunting and fishing, ultimately reversing a denial of a preliminary injunction); *Chalk v. U.S. Dist. Ct. Cent. Dist. of Cal.*, 840 F.2d 701, 704 (9th Cir. 1988) (hearing an appeal on an

[3]As a matter of local practice, this Court routinely grants expedited review on appeals from district court orders denying motions for preliminary injunctions. *See* 9th Cir. R. 3-3(c) (imposing an expedited appeal process for denials of preliminary injunctions).

expedited basis that involved a school teacher's entitlement to a position when the school year had started, ultimately reversing a denial of a preliminary injunction); *Newmont Min. Corp. v. Pickens*, 831 F.2d 1448, 1448 (9th Cir. 1987) (hearing an appeal on an expedited basis that involved a hostile takeover bid given "the significance of the issue presented and the exigencies of time involved in takeover bids"); *Sierra Club v. Marsh*, 816 F.2d 1376, 1381 (9th Cir. 1987) (hearing an appeal on an expedited basis that involved a construction project that allegedly would have harmed several species of endangered birds, ultimately reversing denial of a preliminary injunction); *Hilo v. Exxon Corp.*, 997 F.2d 641, 643 (9th Cir. 1993) (hearing an appeal on an expedited basis alleging harm that gas station franchisees would suffer as a result of an oil company's decision to withdraw from a geographic market, ultimately reversing denial of a preliminary injunction).

In this case, the enforcement of Proposition 12 will inflict similar grievous harms, catastrophically impacting not only IPPA and its members, but the pork industry in Iowa and this Nation's broader pork supply. The vast majority of IPPA's members are not currently in compliance with Proposition 12. McGonegle Decl. ¶ 15, ECF No. 24-4. As previously stated, the CHCC Order stay of enforcement expires absent further action on July 1, 2023. No guidance has been issued concerning whether that stay of enforcement is intended to allow the legal sell-through of meat from covered animals that were non-compliant with Proposition 12

prior to July 1, 2023, who already had offspring in gestation, farrowing or weaning. California has given no indication that it intends to delay enforcement of the turn-around requirements of Proposition 12, even prior to July 1, 2023. Accordingly, IPPA members are left with the understanding that even though the stay of enforcement was in effect within the CHCC Order, they may not sell whole pork meat into California that was non-compliant with Proposition 12 prior to July 1, 2023, *despite* a stay of enforcement being in effect through the CHCC Order. Even more concerning, because Proposition 12 would require at least 50% more space than what Iowa producers currently now use to raise pork, many Iowa producers will likely "choose to exit the market all together due to a lack of profit or potential losses faced year over year," especially "smaller operations, who operate with fewer cost efficiencies that larger operations. . .". Tonsor Decl. ¶¶ 14–21, ECF No. 24-3.[4] In turn, this will decimate the local pork industry in Iowa, which employs more than 147,000 individuals. McGonegle Decl. ¶ 6, ECF No. 24-4.

But this impact will not only be felt in Iowa, nor will the impact be limited solely to economic impact. In 2019, Iowa harvested an estimated 39.117 million

[4]As appropriately recognized by the district court, these harms should be qualified as noncompensable money damages, which are cognizable as irreparable harm given that the "Eleventh Amendment may prevent the recovery of plaintiff's compliance costs[.]" ECF No. 84 at 25 (citing *Cal. Pharmacists Ass'n v. Maxwell-Jolly*, 563 F.3d 847, 852 (9th Cir. 2009), *vacated on other grounds, Douglas v. Indep. Living Ctr. of S. Cal., Inc.*, 565 U.S. 606 (2012).

hogs, representing approximately thirty percent of the hogs harvested in the United States for the entire year. McGonegle Decl. ¶ 8, ECF No. 24-4. As a result, the national consumer market for pork will be drastically affected: consumer losses as a result of Proposition 12 are conservatively estimated to be over $34 million in California alone, and $303 million across the Nation. Tonsor Decl. ¶ 27, ECF No. 24-3. California will likely see a 73.33% reduction in pork available for purchase with an estimated 40-47% increase in pork prices. *Id.* at ¶¶ 29–30. These consumer losses and food shortages in California alone will have pernicious effects on cost-burdened California consumers and businesses, ultimately forcing families and businesses to pay dramatically higher costs for a food staple– assuming sufficient quantities of compliant pork are even available. *See*, *e.g.*, Alicia Wallace, *Pork is already super expensive. This new animal-welfare law could push prices higher*, CNN (last updated Oct. 17, 2021), available at https://cnn.it/3EoaH78. And these economic and consumer harms are only *in addition to* the harms Proposition 12 poses to the physical welfare of raised pork. *See generally* Salak-Johnson Decl. ¶¶ 13–73, ECF No. 24-2. Due to the significant and immediate nature of these harms, and the fact that the U.S. Supreme Court has noted that future separate claims remain to determine whether Proposition 12 can meet constitutional muster, this Court should hear these issues in an expedited manner.

Furthermore, good cause exists to hear this appeal before enforcement of Proposition 12 begins, as shown by the Court's *NPPC* Opinion and after considering the arguments advanced by IPPA. With respect to IPPA's dormant Commerce Clause challenge, for example, the Court's entire analysis was centered upon the assumption that Proposition 12 carried no discriminatory purpose. Indeed, the Supreme Court's decision repeatedly emphasized that "no State may use its laws to discriminate purposefully against out-of-state economic interests." *NPPC*, 2023 WL 3356528, at *8. But that assumption was just that—not an explicit holding—as the NPPC petitioners did "not allege that [Proposition 12] seeks to advance in-state firms or disadvantage out-of-state rivals" and had explicitly "disavow[ed] any discrimination claim . . ..". *Id.* at *8. But the precise *opposite* is true in this case. IPPA *directly alleges* that Proposition 12 discriminates against out-of-state pork producers. *See, e.g.*, FAC ¶ 61, ECF No. 23 (alleging the "discriminatory intent of Defendants"); FAC ¶ 150 (alleging that Proposition 12 "allows for arbitrary, inconsistent, and discriminatory enforcement by Defendants"); FAC ¶¶ 180–82 ("Proposition 12 discriminates against out-of-state producers," "discriminates in practical effect against out-of-state producers," and "carries a facial discriminatory purpose in avoiding 'negative fiscal impacts' to the State of California"); FAC ¶ 186 ("Sufficient justification does not exist to discriminate against out-of-state producers"); FAC ¶ 211 ("one singular stated purpose within [Proposition 12 is] to

'avoid negative fiscal impacts to the State of California,' [which] portrays the discriminatory purpose"); FAC ¶ 209 ("Proposition 12 is a protectionist trade barrier with a discriminatory purpose").

Furthermore, IPPA also asserted Proposition 12 violated the Due Process Clause, the Privileges and Immunities Clause, and was preempted by the Packers & Stockyards Act—none of which were analyzed by *NPPC*, each providing an alternative reason for why Proposition 12 is unlawful. Justice Gorsuch in his opinion of the Court and Justice Kavanaugh in his concurrence in part and dissent in part in *NPPC* both suggest alternative Constitutional challenges. *NPPC*, 2023 WL 3356528, at *8, *25. Of particular note, Justice Kavanaugh indicated that the issue of whether Proposition 12 violates the Privileges and Immunities Clause "warrants further analysis" as "[u]nder this Court's precedents, one State's efforts to effectively regulate farming, manufacturing, or production in other States could raise significant questions under that Clause." *NPPC*, 2023 WL 3356528, at *25 (Kavanaugh, J., concurring in part and dissenting in part). The Court leaving the door open to distinct constitutional challenges like those already asserted by IPPA is sufficient good cause to hear this matter on an expedited basis. Not only will an expedited appeal benefit IPPA and the pork industry as a whole but hearing this matter prior to California beginning enforcement of Proposition 12 will avoid significant enforcement costs to California for enforcing a law that may ultimately

be deemed unconstitutional. *See* Anna Keeve, "Farm Animal Rights Bill, Proposition 12: Everything You Need to Know", *LA Progressive* (August 30, 2018), https://perma.cc/6G64-AHUZ, ("Enforcing the measure may cost up to ten million dollars annually.")

In sum, the Supreme Court in *NPPC* left critical legal issues yet to be resolved with respect to the constitutionality and resulting enforceability of Proposition 12. Considering the significant upheaval enforcement would inflict on IPPA, its members, and the pork industry at large, good cause exists for expedited treatment.

CONCLUSION

For the foregoing reasons, IPPA requests the stay in this case be lifted and for this Court to resolve what remains unresolved with respect to the propriety of Proposition 12. Furthermore, as IPPA will suffer irreparable harm if resolution of this matter is not resolved by July 1, 2023, IPPA respectfully proposes the following briefing and argument schedule[5]:

[5]"The motion may also include a proposed briefing schedule and date for argument or submission." 9th Cir. R. 27-12.

Proposed Date	Action
May 30, 2023	Appellant's opening brief and excerpts of record shall be served and filed pursuant to FRAP 31 and 9th Cir. R. 31-2.1.
June 13, 2023	Appellees' answering brief and excerpts of record shall be served and filed pursuant to FRAP 31 and 9th Cir. R. 31-2.1.
June 20, 2023	The optional appellant's reply brief shall be filed and served, pursuant to FRAP 31 and 9th Cir. R. 31-2.1.
June 27, 2023	Date of Argument or Submission
July 1, 2023	Date of Resolution

IOWA PORK PRODUCERS ASSOCIATION, Appellant.

By: */s/ Ryann A. Glenn*

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STATUS OF TRANSCRIPT PREPARATION

All transcripts have been ordered and filed with the district court.

MEET AND CONFER OBLIGATION

The Defendant-Appellees and Intervenor-Appellees have been consulted with by Appellant's counsel and oppose the proposed briefing schedule set forth in this Motion.

CERTIFICATE OF COMPLIANCE

1. This motion complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2) because this motion does not exceed 5,200 words. Furthermore, this motion complies with 9th Circuit Rule 27-1(1)(d) as it does not exceed 20 pages, exclusive of the documents referenced within Federal Rules of Appellate Procedure 27(a)(2)(B) & 32(f).

2. This motion complies with the typeface and type style requirements of Federal Rule of Appellate Procedure 27(d)(1)(E) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in 14-point Times New Roman font.

/s/ Ryann A. Glenn

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on this 18th day of May 2023, the foregoing was served on all counsel of record via the Court's CM/ECF System.

/s/ Ryann A. Glenn