

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

MASSACHUSETTS RESTAURANT
ASSOCIATION, HOSPITALITYMAINE,
NEW HAMPSHIRE LODGING &
RESTAURANT ASSOCIATION, RHODE
ISLAND HOSPITALITY ASSOCIATION,
RESTAURANT LAW CENTER, and the
NATIONAL PORK PRODUCERS
COUNCIL,

Plaintiffs,

v.

ANDREA JOY CAMPBELL, in her Official
Capacity as the Attorney General of
Massachusetts, and ASHLEY E. RANDLE,
in her Official Capacity as Commissioner of
the Massachusetts Department of Agricultural
Resources,

Defendants.

Civil Action No. 4:22-cv-11245-MRG

**STATUS REPORT AND
JOINT MOTION TO EXTEND STAY UNTIL AUGUST 23, 2023**

Plaintiffs Massachusetts Restaurant Association, HospitalityMaine, New Hampshire Lodging & Restaurant Association, Rhode Island Hospitality Association, Restaurant Law Center, and the National Pork Producers Council (“Plaintiffs”) and defendants Andrea Joy Campbell, in her Official Capacity as the Attorney General of Massachusetts, and Ashley E. Randle, in his Official Capacity as Commissioner of the Massachusetts Department of Agricultural Resources (“Defendants”) (collectively, “Parties”)¹ respectfully submit this Statute

¹ Andrea Joy Campbell and Ashley E. Randle are automatically substituted as parties pursuant to Fed. R. Civ. Proc. 25(d).

Report and Joint Motion to Extend the Stay. As grounds for this Motion, the Parties state as follows:

(1) On August 3, 2022, Plaintiffs filed the Complaint in this matter seeking a declaration that M.G.L. c. 129 App. § 1-3(C), 330 CMR § 35.04(1)(c), and the official guidance interpreting same (the “Pork Sale Rules”) violate the dormant Commerce Clause of the Constitution of the United States. Dkt. 1.

(2) Also on August 3, 2022, Plaintiffs filed an Emergency Motion for Preliminary Injunction seeking an order that would prevent the Defendants from enforcing the Pork Sale Rules, which were then scheduled to take effect on August 22, 2022. Dkt. 3. That motion remains pending.

(3) On August 10, 2022, the parties moved to stay this case pending a decision by the Supreme Court in a constitutional challenge to a similar California law that raised many of the same issues that are raised in this case. *National Pork Producers Council v. Ross*, 6 F.4th 1021 (9th Cir. 2021), *cert granted*, 142 S. Ct. 1413 (2022) (Docket No. 21-468) (“*NPPC Appeal*”).

(4) By order of the Court, issued August 11, 2022, the case was stayed until thirty (30) days after the Supreme Court’s decision in the *NPPC Appeal* became final (“Stay Period”). The Parties agreed to jointly confer within ten (10) days of the Supreme Court’s final ruling in the *NPPC Appeal* and to advise the Court within twenty (20) days of the Supreme Court’s final ruling in the *NPPC Appeal* and propose a plan for future proceedings, if any. By joint stipulation, the Defendants agreed not to enforce the Pork Sale Rules during the Stay Period.

(5) The Supreme Court’s decision became final on June 12, 2023, when the mandate issued to the Ninth Circuit.

(6) Pursuant to the Court's August 11, 2022 order, the Parties have conferred and hereby submit this status report and joint motion to extend the Stay Period until August 23, 2023.

(7) The Parties agree that the Supreme Court's decision in the *NPPC Appeal* resolved many of the disputed issues in this case. However, the Parties require additional time to determine what, if any, issues remain unresolved by that decision and whether the Parties can reach a negotiated resolution of those issues.

(8) Accordingly, and in order to conserve scarce judicial and public resources, the Parties request that this court extend the Stay Period until August 23, 2023.

(9) Defendants agree that they will not enforce the Pork Sale Rules against any Plaintiff or non-party during the Stay Period, as extended by an order of the Court.

(10) Defendants further agree that they will not enforce the Pork Sale Rules against any Plaintiff or non-party for any conduct that occurs during the Stay Period, as extended by an order of the Court.

(11) Nothing in this stipulation and joint motion shall be construed as an admission concerning the merits of this lawsuit. The Parties reserve all claims and defenses.

WHEREFORE, the Parties jointly request that the Court extend the stay of this action until August 23, 2023, by which time the Parties will file a proposal for future proceedings in the case, if any.

STIPULATED and AGREED this 7 day of July, 2023.

ALL PLAINTIFFS,

**PLAINTIFF NATIONAL PORK
PRODUCERS COUNCIL,**

by their counsel,

by its counsel,

/s/ Robert M. Shaw

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/s/ Michael C. Formica

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DEFENDANTS ANDREA JOY CAMPBELL, in her Official Capacity as the Attorney General of Massachusetts, and

ASHLEY E. RANDLE, in her Official Capacity as Commissioner of the Massachusetts Department of Agricultural Resources

by their counsel,

/s/ Maryanne Reynolds

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SO ORDERED,

Hon. Margaret R. Guzman
United States District Judge

Date: _____