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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

NATIONAL ASSOCIATION OF WHEAT
GROWERS; NATIONAL CORN
GROWERS ASSOCIATION; UNITED
STATES DURUM GROWERS
ASSOCIATION; WESTERN PLANT
HEALTH ASSOCIATION; IOWA
SOYBEAN ASSOCIATION; SOUTH
DAKOTA AGRI-BUSINESS
ASSOCIATION; NORTH DAKOTA
GRAIN GROWERS ASSOCIATION;
MISSOURI CHAMBER OF COMMERCE
AND INDUSTRY; MONSANTO
COMPANY; ASSOCIATED
INDUSTRIES OF MISSOURI;
AGRIBUSINESS ASSOCIATION OF
IOWA; CROPLIFE AMERICA; AND
AGRICULTURAL RETAILERS
ASSOCIATION,

Plaintiffs,

v.

LAUREN ZEISE, IN HER OFFICIAL
CAPACITY AS DIRECTOR OF THE
OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT; and
XAVIER BECERRA, in his
official capacity as Attorney
General of the State of
California,

Defendants.

CIV. NO. 2:17-2401 WBS EFB
ORDER RE: MOTION TO STAY

1
2 Before the court is defendant Xavier Becerra's Motion
3 to Stay Proceedings. (Docket No. 104.) The court held a hearing
4 on the motion on September 4, 2018.

5 The power to stay proceedings "is incidental to the
6 power inherent in every court to control the disposition of the
7 cases on its docket with economy of time and effort for itself,
8 for counsel, and for litigants." Landis v. N. Am. Co., 299 U.S.
9 248, 254 (1936). Here, the court, in granting a preliminary
10 injunction, relied on the Ninth Circuit's interpretation of
11 Zauderer v. Office of Disciplinary Counsel of Supreme Court of
12 Ohio, 471 U.S. 626, 651 (1985), in determining that the required
13 warning label for glyphosate would not be "purely factual and
14 uncontroversial." The primary case the court relied on, CTIA-The
15 Wireless Association v. City of Berkeley, 854 F.3d 1105 (9th Cir.
16 2017), has since been vacated by the Supreme Court for further
17 proceedings in light of National Institute of Family & Life
18 Advocates v. Becerra, 138 S. Ct. 2361 (2018). Moreover, a more
19 recent decision also interpreting Zauderer's "purely factual and
20 uncontroversial" requirement, American Beverage Association v.
21 City and County of San Francisco, 871 F.3d 884 (9th Cir. 2017),
22 was called en banc and is scheduled for oral argument later this
23 month.

24 Because CTIA and American Beverage concern the
25 interpretation and application of Zauderer's "purely factual and
26 uncontroversial" requirement, new decisions in those cases would
27 assist the court in deciding any motion for summary judgment
28 filed by the parties in this case. Further, the court has

1 already granted a preliminary injunction blocking enforcement of
2 the warning requirement as to glyphosate in this case.
3 Plaintiffs identify no prejudice from a stay other than
4 uncertainty to their members due to further delay.¹ This
5 uncertainty is insufficient to outweigh the savings of time and
6 effort for the court and the parties that may be gained from
7 staying this case pending further guidance from the Ninth Circuit
8 in CTIA or American Beverage.

9 IT IS THEREFORE ORDERED that all proceedings in this
10 case are hereby STAYED pending issuance of opinions by the Ninth
11 Circuit in American Beverage Association v. City and County of
12 San Francisco, No. 16-16072, and CTIA-The Wireless Association v.
13 City of Berkeley, No. 16-15141. When the Ninth Circuit has
14 issued opinions in both those cases, counsel shall take the
15 necessary steps to have this matter placed back on the calendar
16 for further status conference. The briefing schedule and hearing
17 date of January 22, 2019 on the cross-motions for summary
18 judgment are vacated.

19
20 Dated: September 5, 2018



21 WILLIAM B. SHUBB
22 UNITED STATES DISTRICT JUDGE

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24
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26 _____
27 ¹ Notably, counsel for plaintiff explained multiple times
28 at oral argument that he was not claiming "the sky would fall" if
a stay was granted.