

1 BENJAMIN C. MIZER
 Principal Deputy Assistant Attorney General
 2 ERIC R. WOMACK
 Assistant Branch Director
 3 M. ANDREW ZEE (CA Bar No. 272510)
 Attorney
 4 Civil Division, Federal Programs Branch
 5 U.S. Department of Justice
 6 450 Golden Gate Avenue, Room 7-5395
 San Francisco, CA 94102
 7 Telephone: (415) 436-6646
 Facsimile: (415) 436-6632
 8 E-mail: m.andrew.zee@usdoj.gov

9 *Attorneys for Defendants*

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 12 **UNITED STATES DISTRICT COURT**
FOR THE NORTHERN DISTRICT OF CALIFORNIA
 13 **SAN FRANCISCO DIVISION**

14
 15 CENTER FOR FOOD SAFETY *et al.*,

16 Plaintiffs,

17 v.

18 TOM VILSACK, in his official capacity as
 19 Secretary of the U.S. Department of
 20 Agriculture *et al.*,

21 Defendants.

No. 3:15-cv-01590-HSG

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**STIPULATION AND ORDER TO SET
 BRIEFING SCHEDULE FOR
 DEFENDANTS' MOTION TO DISMISS**

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STIPULATION

Pursuant to Civil Local Rule 6-1(a), Plaintiffs, Center for Food Safety, Beyond Pesticides, Equal Exchange, Food & Water Watch, La Montanita Co-op, Organic Seed Growers and Trade Association, The Cornucopia Institute, Northeast Organic Dairy Producers Alliance, PCC Natural Markets, Greensward/New Natives LLC, Frey Vineyards, Ltd., Organic Consumers Association, Maine Organic Farmers and Gardeners Association, and Ohio Ecological Food and Farm Association, and Defendants, Tom Vilsack, Secretary of the U.S. Department of Agriculture; Anne Alonzo, Administrator of the Agricultural Marketing Service; and Miles McEvoy, Deputy Administrator of the National Organic Program, all sued solely in their official capacities, through their respective undersigned counsel, stipulate and agree as follows:

1. On April 7, 2015, Plaintiffs filed a Complaint in this Court asserting two causes of action against Defendants. ECF No. 1. Undersigned counsel for Defendants entered an appearance in this case on May 6, 2015. ECF No. 8. On May 6, 2015, the parties filed a stipulation setting July 17, 2015 as Defendants' deadline to response to the Complaint. ECF No. 9. Defendants anticipate that, in response to Plaintiffs' Complaint, they may file a dispositive Motion to Dismiss pursuant to Rule 12(b).

2. Counsel for the parties have conferred and, consistent with the Commentary to Local Rule 7-2, wish to stipulate to the below briefing schedule for Defendants' anticipated Motion to Dismiss:

- ◆ **July 17, 2015:** Defendants' deadline to file Motion to Dismiss.
- ◆ **August 7, 2015:** Plaintiffs' deadline to file Opposition to Motion.
- ◆ **August 21, 2015:** Defendants' deadline to file Reply in Support of Motion.
- ◆ **September 2, 2015:** Hearing on Motion at a time convenient to the Court.

1 3. The parties have requested a hearing on a Wednesday rather than during the
2 Court's ordinary Thursday civil motion hearing based on counsel's unavailability on Thursday,
3 September 3 at 2:00 p.m. due to preexisting travel commitments. To the extent the Court's
4 calendar is not amenable to a hearing on Wednesday, September 2, 2015, the parties respectfully
5 request that the Court set a hearing on Defendants' Motion to Dismiss for September 28, 2015 or
6 thereafter.
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8 4. Pursuant to Local Rule 6-2(a), undersigned counsel for Defendant has filed a
9 declaration in support of this stipulation. Counsel for Plaintiffs does not object to the statements
10 contained therein.
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12 THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the
13 parties, subject to the Court's approval, that the above briefing schedule shall govern any Motion
14 to Dismiss filed by Defendants in response to the Complaint.
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16 Dated: May 18, 2015.

Respectfully submitted,

/s/ Paige M. Tomaselli

PAIGE M. TOMASELLI
(State Bar No. 237737)
SYLVIA SHIH-YAU WU
(State Bar No. 273549)
Center for Food Safety
303 Sacramento Street, 2nd Floor
San Francisco, CA 94111
Phone: (415) 826-2770
Fax: (415) 826-0507
Emails: ptomaselli@centerforfoodsafety.org
swu@centerforfoodsafety.org

Counsel for Plaintiffs

26 Dated: May 18, 2015.

U.S. DEPARTMENT OF JUSTICE

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

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ERIC R. WOMACK
Assistant Branch Director

/s/ Andrew Zee
M. ANDREW ZEE (CA Bar No. 272510)
Attorney
Civil Division, Federal Programs Branch
U.S. Department of Justice

Attorneys for Defendants

ATTESTATION

Pursuant to Local Rule 5-1(i)(3), I attest that I am the ECF user whose user ID and password are being used in the electronic filing of this document, and further attest that I have obtained the concurrence in the filing of the document from the other signatory.

/s/ Andrew Zee
M. ANDREW ZEE (CA Bar #272510)

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ORDER

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2 Upon stipulation of the parties, and good cause appearing, the Court hereby orders the
3 following schedule for Defendants' anticipated Motion to Dismiss in response to the Complaint:

- 4 ♦ **July 17, 2015:** Defendants' deadline to file Motion to Dismiss.
- 5 ♦ **August 7, 2015:** Plaintiffs' deadline to file Opposition to Motion.
- 6 ♦ **August 21, 2015:** Defendants' deadline to file Reply in Support of Motion.
- 7 ♦ **August 21, 2015:** Defendants' deadline to file Reply in Support of Motion.
- 8 ♦ **September 2, 2015 at 2:00 p.m.:** Hearing on Motion.

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10 PURSUANT TO STIPULATION, IT IS SO ORDERED.

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15 Dated: May 19, 2015


HON. HAYWOOD S. GILLIAM, JR.
United States District Court Judge

