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## **MEMORANDUM IN SUPPORT**

Plaintiffs seek an unopposed extension of time to file their Opposition to Defendant Michigan Department of Agriculture's ("MDA") Motion to Dismiss First Amended Complaint. MDA does not oppose this request for extension.

MDA filed their motion to dismiss on February 19, 2009. Under the Court's local rules, a response is due in 11 days. See LCvR 7(b). However, Plaintiffs' counsel's professional work prevented the drafting and filing of a response on or before March 2, 2009. Plaintiffs' counsel was out of town interviewing a client in Illinois on February 20<sup>th</sup> and was a presenter at the Ohio Ecological Food and Farm Association annual conference on February 21, 2009.

Plaintiffs' counsel also had depositions, three appellate briefs, and an opposition to Defendant United States Department of Agriculture's ("USDA") motion to dismiss that was filed in this case that consumed his time during the week of February 23<sup>rd</sup> after receiving MDA's motion to dismiss. Thus, Plaintiffs' counsel was unable to devote sufficient time and attention to drafting an opposition to MDA's motion to dismiss and have it filed by March 2, 2009.

In addition, MDA's motion to dismiss is 40 pages in length and cites to at least 25 cases and numerous sections of federal and state statutory and regulatory law. Thus, it will take extensive time beyond March 2<sup>nd</sup> to properly review, read and digest all of these cases and legal citations.

Also, Plaintiffs filed an identical unopposed motion for extension of time to respond to USDA's motion to dismiss, which was granted by the Court. Plaintiffs apologize to the Court if a memorandum in support demonstrating just cause was

required in this case and instead inappropriately filed the same unopposed motion for extension in MDA's case as well. Both motions, however, seek an extension until the same date, March 23, 2009.

Plaintiffs do not seek an extension for purposes of delay. Plaintiffs merely wish to adequately brief and present these important issues to the Court so that it can make an informed decision on the merits of MDA's motion. For this, Plaintiffs need an extension.

Consequently, just cause exists for an extension of time until March 23, 2009 and Plaintiffs respectfully request it should be granted.

Respectfully submitted,

Dated: February 28, 2009

/s/ David G. Cox  
David G. Cox (D.C. Bar No. OH 0020)  
4240 Kendale Road  
Columbus, OH 43220  
[dcoxlaw@columbus.rr.com](mailto:dcoxlaw@columbus.rr.com)  
Phone: 614-457-5167  
Counsel for Plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that on February 28, 2009, I electronically filed the  
PLAINTIFFS' SECOND UNOPPOSED MOTION FOR EXTENSION OF TIME  
AND MEMORANDUM IN SUPPORT with the Clerk of the Court using the  
CM/ECF system, which will send notification of such filing to the following:

Peter T. Wechsler  
peter.wechsler@usdoj.gov  
Trial Attorney  
United States Department of Justice  
Civil Division  
Federal Programs Branch  
20 Massachusetts Avenue, N.W.  
Washington, D.C. 20530  
Counsel for USDA

and

James E. Riley  
rileyje@michigan.gov  
First Assistant  
Danielle Allison-Yokom  
allisonyokomd@michigan.gov  
Assistant Attorney General  
Michigan Department of Agriculture  
Environment, Natural Resources  
and Agriculture Division  
525 West Ottawa Street  
6th Floor Williams Building  
Lansing, MI 48913  
Counsel for MDA

/s/ David G. Cox  
David G. Cox

**BEFORE THE UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA**

<b>Farm-to-Consumer Legal Defense Fund, et al.</b>	:	<b>Case No. 1:08-cv-01546-RMC</b>
	:	
<b>Plaintiffs</b>	:	<b>Judge Rosemary M. Collyer</b>
	:	
<b>v.</b>	:	
	:	
<b>U.S. Department of Agriculture Ed Schafer, Secretary, et al.</b>	:	<b>(PROPOSED) ENTRY AND ORDER</b>
	:	
<b>Defendants</b>	:	

This matter is before the Court on Plaintiffs' motion for extension of time to file their opposition to Defendant Michigan Department of Agriculture's pending motion to dismiss the First Amended Complaint. Finding the motion for extension is not opposed or objected to, it is hereby **GRANTED**. Plaintiffs shall have until March 23, 2009 to file their opposition.

**SO ORDERED**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**JUDGE**