

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

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|---|---|-----------------------------------|
| Farm-to-Consumer Legal Defense Fund, et al. | : | : |
| | : | Case No. 1:08-cv-01546-RMC |
| Plaintiffs | : | Judge Rosemary M. Collyer |
| | : | |
| v. | : | |
| | : | |
| U.S. Department of Agriculture Ed Schafer, Secretary, et al. | : | |
| | : | |
| Defendants | : | |

**PLAINTIFFS’ SECOND UNOPPOSED MOTION FOR EXTENSION OF TIME
AND MEMORANDUM IN SUPPORT**

Plaintiffs in this matter move the Court for an extension of time until March 23, 2009 to file an opposition to the Michigan Department of Agriculture’s pending Motion to Dismiss the First Amended Complaint. Defendant MDA has been consulted on this matter and it does not have any objection to this extension. A memorandum in support is attached hereto and incorporated as if rewritten herein.

Respectfully submitted,

Dated: February 28, 2009

/s/ David G. Cox
 David G. Cox (D.C. Bar No. OH 0020)
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 Counsel for Plaintiffs

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 20th 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 23rd 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 2nd 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
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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:

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Counsel for MDA

/s/ David G. Cox
David G. Cox

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| Plaintiffs | : | Judge Rosemary M. Collyer |
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| | : | |
| U.S. Department of Agriculture Ed Schafer, Secretary, et al. | : | (PROPOSED) ENTRY AND ORDER |
| | : | |
| Defendants | : | |

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