

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

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' REPLY TO MDA'S RESPONSE TO GREG NIEWENDORP'S
MOTION FOR LEAVE TO VOLUNTARILY DISMISS HIS CLAIMS AGAINST
MDA WITHOUT PREJUDICE**

MDA does not contest that Mr. Niewendorp's voluntary dismissal should be without prejudice and that his motion should be granted. The MDA does, however, include an inaccurate claim in its Response about the impact on the remaining Plaintiffs, which is why Plaintiffs file this Reply.

MDA claims that "All Plaintiffs other than Niewendorp may have the eartags applied by others upon transfer of possession at the market." Defendant MDA's Response at ¶ 2. That is not true. As clearly stated by the March 1, 2007 "Order" of MDA: "Effective March 1, 2007, all cattle must be identified with official RFID electronic identification eartags *prior to movement from a premises* within Michigan, unless exempted by the director." Emphasis added. See MDA Appendix, pg. 17. Even if the tag can be applied at the sales barn when Plaintiffs sell their cattle, they still must pay for it and have their property assigned NAIS numbers. Moreover, under the March 2007 Order, Plaintiffs cannot sell their

animals under private treaty or take them to other properties without tagging them, nor can Plaintiffs buy new or replacement cattle without an RFID tag.

Mr. Niewendorp's motion for leave to voluntarily dismiss his claims against MDA without prejudice should be granted without reference to the remaining Plaintiffs.

May 26, 2009

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 26, 2009, I electronically filed the foregoing 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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