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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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HUMANE SOCIETY OF THE :
UNITED STATES, :

Plaintiff, :

-against- :

HVFG, LLC, :

Defendants. :
-----X

**ORDER
06 CV 6829 (HB)**

Hon. HAROLD BAER, JR., District Judge:

WHEREAS, Defendant HVFG, LLC filed a motion for summary judgment pursuant to Fed. R. Civ. P. 56(c) on May 7, 2007 (the "Motion");

WHEREAS, Fed. R. Civ. P. 56(f) provides that "[i]f a party opposing the motion shows by affidavit that, for specified reasons, it cannot present facts essential to justify its opposition the court may . . . deny the motion";

WHEREAS, in opposition to the Motion Plaintiff Humane Society of the United States served and filed an affidavit of Michael Markarian setting forth the information to be sought by Plaintiff in discovery and how a the existence of a genuine issue of material fact precluding summary judgment will be established by such discovery; it is hereby


ORDERED that pursuant to Fed. R. Civ. P. 56(f) and for the reasons stated on the record at the hearing on August 4, 2009, the Motion is DENIED; and it is further

ORDERED that Clerk of Court is directed to close the Motion; and it is further

ORDERED that the parties submit to the Court a proposed Pretrial Scheduling

Order by the date that is seven (7) days from the date of this Order.

SO ORDERED
New York, New York
August 11, 2009



Harold Baer, Jr.
United States District Judge