

U.S. District Court
Western District of Wisconsin (Madison)
CIVIL DOCKET FOR CASE #: 3:16-cv-00246-wmc

The Cornucopia Institute et al v. United States Department of Agriculture
et al

Assigned to: District Judge William M. Conley
Referred to: Magistrate Judge Stephen L. Crocker
Cause: 07:2321 Plant Variety Protection Act

Date Filed: 04/18/2016
Date Terminated: 05/23/2017
Jury Demand: None
Nature of Suit: 899 Other Statutes:
Administrative Procedures Act/Review or
Appeal of Agency Decision
Jurisdiction: U.S. Government Defendant

Plaintiff

The Cornucopia Institute

represented by **Sarah Jean Fox**
Georgetown University Law Center
600 New Jersey Avenue NW
Suite 312
Washington, DC 20001
202-661-6694
Email: sarah.fox@law.georgetown.edu
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Dominic Marchese

represented by **Sarah Jean Fox**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Rebecca Goodman

represented by **Sarah Jean Fox**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

United States Department of Agriculture

represented by **Leslie K. Herje**
U.S. Attorney's Office
222 W. Washington Ave.
Suite 700
Madison, WI 53703
608-264-5158
Fax: 608-264-5724
Email: leslie.herje@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Lisa Ann Olson
 U.S. Department of Justice
 20 Massachusetts Ave., NW
 Washington, DC 20530
 202-514-5633
 Fax: 202-616-8470
 Email: lisa.olson@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Tom Vilsack
*In his official capacity as Secretary of
 Agriculture*

represented by **Lisa Ann Olson**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/18/2016	<u>1</u>	COMPLAINT against All Defendants. (Filing fee \$ 400 receipt number 0758-1791831.), filed by All Plaintiffs. (Attachments: # <u>1</u> JS-44 Civil Cover Sheet, # <u>2</u> Summons, # <u>3</u> Summons) (Fox, Sarah) (Entered: 04/18/2016)
04/18/2016	<u>2</u>	Motion to Admit Sarah Jean Fox Pro Hac Vice. (Pro Hac Vice fee \$ 50 receipt number 0758-1791850.) by Plaintiffs Rebecca Goodman, Dominic Marchese, The Cornucopia Institute. (Fox, Sarah) (Entered: 04/18/2016)
04/18/2016	<u>3</u>	Corporate Disclosure Statement by Plaintiffs Rebecca Goodman, Dominic Marchese, The Cornucopia Institute. (Fox, Sarah) (Entered: 04/18/2016)
04/19/2016	4	** TEXT ONLY ORDER ** ORDER granting <u>2</u> Motion to Admit Sarah Jean Fox Pro Hac Vice. Signed by Magistrate Judge Peter A. Oppeneer on 4/19/2016. (lak) (Entered: 04/19/2016)
04/19/2016		Case randomly assigned to Magistrate Judge Stephen L. Crocker. (jat) (Entered: 04/19/2016)
04/19/2016		Standard attachments for Magistrate Judge Stephen L. Crocker required to be served on all parties with summons or waiver of service: Corporate Disclosure Statement , Order Regarding Assignment of Civil Cases , Notice of Assignment to a Magistrate Judge and Consent/Request for Reassignment , Order on Dispositive Motions . (jat) (Entered: 04/19/2016)
04/19/2016	<u>5</u>	Summons Issued as to United States Department of Agriculture, Tom Vilsack. (Attachments: # <u>1</u> Summons Vilsack) (jat) (Entered: 04/19/2016)
04/19/2016	<u>6</u>	Affidavit of Service by Plaintiff. United States Department of Agriculture served on 4/19/2016, answer due 6/20/2016. (Fox, Sarah) (Entered: 04/19/2016)
04/19/2016	<u>7</u>	Affidavit of Service by Plaintiff. Tom Vilsack served on 4/19/2016, answer due 6/20/2016. (Fox, Sarah) (Entered: 04/19/2016)
05/19/2016		Case randomly reassigned to District Judge William M. Conley and Magistrate Judge Stephen L. Crocker. (cak) (Entered: 05/19/2016)

06/21/2016	8	Unopposed Motion for Extension of Time to File Answer re: 1 Complaint by Defendants United States Department of Agriculture, Tom Vilsack. Motions referred to Magistrate Judge Stephen L. Crocker. (Olson, Lisa) (Entered: 06/21/2016)
06/22/2016	9	** TEXT ONLY ORDER ** ORDER granting 8 Motion for Extension of Time to Answer. United States Department of Agriculture answer due 7/15/2016; Tom Vilsack answer due 7/15/2016. Signed by Magistrate Judge Stephen L. Crocker on 6/21/16. (jat) (Entered: 06/22/2016)
07/10/2016	10	Unopposed Motion for Extension of Time to File Answer re: 1 Complaint by Defendants United States Department of Agriculture, Tom Vilsack. Motions referred to Magistrate Judge Stephen L. Crocker. (Attachments: # 1 Text of Proposed Order) (Olson, Lisa) (Entered: 07/10/2016)
07/11/2016	11	** TEXT ONLY ORDER ** ORDER granting 10 Motion for Extension of Time to Answer re: 1 Complaint. It is extraordinarily unlikely that the court will grant yet another extension of this deadline. Counsel should act accordingly. United States Department of Agriculture answer due 8/15/2016; Tom Vilsack answer due 8/15/2016. Signed by Magistrate Judge Stephen L. Crocker on 7/11/2016. (voc) (Entered: 07/11/2016)
08/15/2016	12	Disregard. See 14 . Modified on 8/16/2016. (lak) (Entered: 08/15/2016)
08/15/2016	13	Brief in Support of 14 Motion to Dismiss by Defendants United States Department of Agriculture, Tom Vilsack. (Olson, Lisa) Modified on 8/16/2016. (lak) (Entered: 08/15/2016)
08/15/2016		Set Telephone Conference: Telephone Pretrial Conference set for 9/14/2016 at 02:30 PM before Magistrate Judge Stephen L. Crocker. Counsel for Plaintiff responsible for setting up the call to chambers at (608) 264-5153. [Standing Order Governing Preliminary Pretrial Conference attached] (jat) (Entered: 08/15/2016)
08/15/2016	14	MOTION TO DISMISS by Defendants United States Department of Agriculture, Tom Vilsack. Brief in Opposition due 9/6/2016. Brief in Reply due 9/15/2016. (Attachments: # 1 Text of Proposed Order) (Olson, Lisa) (Entered: 08/15/2016)
08/26/2016	15	Joint Motion to Continue <i>Pretrial Conference</i> by Defendants United States Department of Agriculture, Tom Vilsack, (Attachments: # 1 Text of Proposed Order) (Olson, Lisa) (Entered: 08/26/2016)
08/26/2016	16	** TEXT ONLY ORDER ** The joint motion to cancel the preliminary pretrial conference pending a decision on the motion to dismiss is DENIED. The fallback motion to postpone this conference is GRANTED. Signed by Magistrate Judge Stephen L. Crocker on 8/26/2016. (arw) (Entered: 08/26/2016)
08/26/2016		Reset Deadlines and Hearings: Telephone Pretrial Conference reset for 10/11/2016 at 1:00 PM before Magistrate Judge Stephen L. Crocker. Counsel for Plaintiff responsible for setting up the call to chambers at (608) 264-5153. (arw) (Entered: 08/26/2016)
09/02/2016	17	AMENDED COMPLAINT against All Defendants, filed by All Plaintiffs. (Fox, Sarah) (Entered: 09/02/2016)
09/02/2016	18	Motion to Declare Moot Defendants' Motion to Dismiss the Original Complaint re: 13 Brief in Support, 14 MOTION TO DISMISS by Plaintiffs Rebecca Goodman, Dominic Marchese, The Cornucopia Institute. Response due 9/9/2016. (Fox, Sarah) (Entered: 09/02/2016)
09/06/2016	19	Response Stating No Opposition by Defendants United States Department of Agriculture, Tom Vilsack re: 18 Motion for Miscellaneous Relief, filed by The Cornucopia Institute, Rebecca Goodman, Dominic Marchese <i>and Unopposed Motion for Extension of Time</i> (Olson, Lisa) Modified

		on 9/7/2016 (jat). (Entered: 09/06/2016)
09/07/2016	20	** TEXT ONLY ORDER ** Plaintiff's unopposed motion to declare moot defendants' motion to dismiss the original complaint (dkt. # 18) is GRANTED. Defendants' answer or motion to dismiss the amended complaint is now due by October 19, 2016. Signed by District Judge William M. Conley on 9/7/16. (jat) (Entered: 09/07/2016)
10/04/2016	21	Joint Report of Rule 26(f) Planning Meeting. (Fox, Sarah) (Entered: 10/04/2016)
10/11/2016		Minute Entry for proceedings held before Magistrate Judge Stephen L. Crocker: Telephone Preliminary Pretrial Conference held on 10/11/2016 [:18] (cak) (Entered: 10/11/2016)
10/14/2016	22	Pretrial Conference Order - Defendants' Motion to Dismiss due 10/19/2016. Cross Motions for Summary Judgment due 4/20/2017. Motions in Limine due 9/1/2017. Response to Motions due 9/15/2017. Telephone Final Pretrial Conference set for 9/26/2017 at 04:00 PM before Judge William M. Conley. Counsel for Plaintiff responsible for setting up the call to chambers at (608) 264-5087. Court Trial set for 10/5/2017 at 09:00 AM. Signed by Magistrate Judge Stephen L. Crocker on 10/13/16. (jat) (Entered: 10/14/2016)
10/19/2016	23	MOTION TO DISMISS <i>First Amended Complaint</i> by Defendants United States Department of Agriculture, Tom Vilsack. Brief in Opposition due 11/9/2016. Brief in Reply due 11/21/2016. (Attachments: # 1 Text of Proposed Order) (Olson, Lisa) (Entered: 10/19/2016)
10/19/2016	24	Brief in Support of 23 Motion to Dismiss, by Defendants United States Department of Agriculture, Tom Vilsack. (Olson, Lisa) (Entered: 10/19/2016)
11/09/2016	25	Brief in Opposition by Plaintiffs Rebecca Goodman, Dominic Marchese, The Cornucopia Institute re: 23 Motion to Dismiss, filed by Tom Vilsack, United States Department of Agriculture. (Fox, Sarah) (Entered: 11/09/2016)
11/09/2016	26	Declaration of Will Fantle filed by Plaintiffs Rebecca Goodman, Dominic Marchese, The Cornucopia Institute <i>in Support of Plaintiffs' Opposition</i> re: 23 Motion to Dismiss. (Fox, Sarah) (Entered: 11/09/2016)
11/09/2016	27	Declaration of Dominic Marchese filed by Plaintiffs Rebecca Goodman, Dominic Marchese, The Cornucopia Institute <i>in Support of Plaintiffs' Opposition</i> re: 23 Motion to Dismiss. (Fox, Sarah) (Entered: 11/09/2016)
11/09/2016	28	Declaration of Rebecca Goodman filed by Plaintiffs Rebecca Goodman, Dominic Marchese, The Cornucopia Institute <i>in Support of Plaintiffs' Opposition</i> re: 23 Motion to Dismiss. (Fox, Sarah) (Entered: 11/09/2016)
11/16/2016	29	Motion for Extension of Time <i>to File Reply in Support of Motion to Dismiss</i> by Defendants United States Department of Agriculture, Tom Vilsack. Motions referred to Magistrate Judge Stephen L. Crocker. Response due 11/23/2016. (Attachments: # 1 Text of Proposed Order) (Olson, Lisa) (Entered: 11/16/2016)
11/16/2016	30	** TEXT ONLY ORDER ** ORDER granting 29 Motion for Extension of Time. Brief in Reply to Motion to Dismiss due 12/1/2016. Signed by Magistrate Judge Stephen L. Crocker on 11/16/16. (jat) (Entered: 11/16/2016)
12/01/2016	31	Brief in Reply by Defendants United States Department of Agriculture, Tom Vilsack in Support of 23 Motion to Dismiss. (Olson, Lisa) (Entered: 12/01/2016)
03/03/2017	32	Joint Motion for Extension of Time <i>re: Case Schedule</i> by Defendants United States Department of Agriculture, Tom Vilsack. Motions referred to Magistrate Judge Stephen L. Crocker. (Attachments:

		# 1 Text of Proposed Order) (Olson, Lisa) Modified on 3/5/2017. (lak) (Entered: 03/03/2017)
03/10/2017	33	** TEXT ONLY ORDER ** ORDER granting 32 Joint Motion for Extension of Time. Signed by Magistrate Judge Stephen L. Crocker on 3/9/2017. (arw) (Entered: 03/10/2017)
03/10/2017		Reset Deadlines and Hearings: Administrative Record due 4/24/2017. Cross Motions for Summary Judgment due 6/5/2017, Responses due 7/10/2017. Rule 26(a)(3) Disclosures and Motions in Limine due 10/16/2017, Responses due 10/30/2017. Telephone Final Pretrial Conference reset for 11/9/2017 at 4:00 PM, counsel for Plaintiff responsible for setting up the call to chambers at (608) 264-5087. Court Trial reset for 11/20/2017 at 9:00 AM before District Judge William M. Conley. (arw) (Entered: 03/10/2017)
04/18/2017	34	Joint Motion for Extension of Time <i>Regarding Case Schedule</i> by Defendants United States Department of Agriculture, Tom Vilsack. Motions referred to Magistrate Judge Stephen L. Crocker. (Attachments: # 1 Text of Proposed Order) (Olson, Lisa) Modified on 4/18/2017. (lak) (Entered: 04/18/2017)
04/19/2017	35	** TEXT ONLY ORDER ** The parties' second joint motion to extend the schedule 34 is GRANTED. All remaining dates are stricken. The court will hold a telephonic status and scheduling conference if necessary after ruling on the pending motion to dismiss. Signed by Magistrate Judge Stephen L. Crocker on 4/19/17. (jat) (Entered: 04/19/2017)
05/23/2017	36	OPINION AND ORDER granting 23 Motion to Dismiss. Signed by District Judge William M. Conley on 5/23/17. (jat) (Entered: 05/23/2017)
05/23/2017	37	JUDGMENT entered in favor of Defendants United States Department of Agriculture, Tom Vilsack dismissing the case. (jat) (Main Document 37 replaced on 5/23/2017) (jat). (Entered: 05/23/2017)
07/13/2017	38	NOTICE OF APPEAL by Plaintiffs Rebecca Goodman, Dominic Marchese, The Cornucopia Institute as to 37 Judgment, 36 Order on Motion to Dismiss. Filing fee of \$ 505, receipt number 0758-2067686 paid. Docketing Statement filed. (Attachments: # 1 Docketing Statement) (Fox, Sarah) (Entered: 07/13/2017)
07/13/2017	39	Transcript Request Form by Plaintiffs Rebecca Goodman, Dominic Marchese, The Cornucopia Institute re: 38 Notice of Appeal. (Fox, Sarah) (Entered: 07/13/2017)
07/14/2017	40	Appeal Information Packet. (lak) (Entered: 07/14/2017)