

1 THOMAS A. WILLIS, State Bar No. 160989
2 KAREN GETMAN, State Bar No. 136285
3 AARON D. SILVA, State Bar No. 192659
4 DEBORAH B. CAPLAN, State Bar No. 196606
5 OLSON REMCHO, LLP
6 1901 Harrison Street, Suite 1550
7 Oakland, CA 94612
8 Phone: (510) 346-6200
9 Fax: (510) 574-7061
10 Email: twillis@olsonremcho.com
11 kgetman@olsonremcho.com
12 asilva@olsonremcho.com
13 dcaplan@olsonremcho.com

14 Attorneys for Petitioners and Plaintiffs
15 California Hispanic Chambers of Commerce;
16 Kruse & Son, Inc.; California Grocers Association;
17 California Restaurant Association; and
18 California Retailers Association

19 *Please see additional counsel on following page.*

20 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
21 COUNTY OF SACRAMENTO
22 (UNLIMITED JURISDICTION)

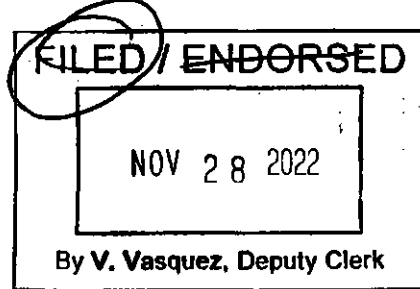
23 CALIFORNIA HISPANIC CHAMBERS OF
24 COMMERCE;
25 KRUSE & SON, INC.;
26 CALIFORNIA GROCERS ASSOCIATION;
CALIFORNIA RESTAURANT ASSOCIATION;
and CALIFORNIA RETAILERS ASSOCIATION,

Petitioners and Plaintiffs,

vs.

KAREN ROSS in her official capacity as the
Secretary of the California Department of Food
and Agriculture;
TOMAS J. ARAGÓN in his official capacity as
the Director of the California Department of Public
Health;
ROB BONTA in his official capacity as the
Attorney General of the State of California; and
ANNE MARIE SCHUBERT in her official
capacity as the District Attorney of the County of
Sacramento,

Respondents and Defendants.



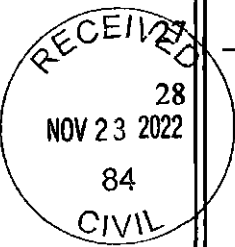
No.: 34-2021-80003765

Action Filed: November 10, 2021

**JOINT STIPULATION OF ALL PARTIES
REQUESTING MODIFICATION OF
FEBRUARY 2, 2022 JUDGMENT AND
WRIT OF MANDATE DUE TO CHANGED
CIRCUMSTANCES; ~~PROPOSED~~ ORDER**

Judge: The Honorable James P. Arguelles
Dept.: 32

BY FAX



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ADDITIONAL COUNSEL

ROB BONTA
Attorney General of California
R. MATTHEW WISE
Supervising Deputy Attorney General
MARLA R. WESTON, State Bar No. 209460
SARAH M. BARNES, State Bar No. 235587
NATASHA SAGGAR SHETH, State Bar No. 282896
Deputy Attorneys General
OFFICE OF THE CALIFORNIA
ATTORNEY GENERAL
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Phone: (415) 510-3818
Fax: (415) 703-5480
Email: Natasha.Sheth@doj.ca.gov
Marla.Weston@doj.ca.gov
Sarah.Barnes@doj.ca.gov

Attorneys for Respondents and Defendants
Karen Ross, Tomás J. Aragón, and Rob Bonta

KRISTA WHITMAN, Asst. County Counsel,
State Bar No. 135881
OFFICE OF SACRAMENTO
COUNTY COUNSEL
700 H Street, Room 2650
Sacramento, CA 95814
Phone: (916) 874-5813
Email: whitmank@saccounty.net

Attorneys for Respondent and Defendant
Anne Marie Schubert

1 **JOINT STIPULATION OF ALL PARTIES**

2 Petitioners and Plaintiffs California Hispanic Chambers of Commerce, Kruse & Son,
3 Inc., California Grocers Association, California Restaurant Association, and California Retailers
4 Association (“Petitioners”) and Respondents and Defendants Karen Ross, in her official capacity as the
5 Secretary of the California Department of Food and Agriculture, Tomás J. Aragón, in his official
6 capacity as the Director of the California Department of Public Health, Rob Bonta, in his official
7 capacity as the Attorney General of the State of California, and Anne Marie Schubert, in her official
8 capacity as the District Attorney of the County of Sacramento (“Respondents”), respectfully submit
9 this Joint Stipulation of All Parties requesting that the February 2, 2022, Judgment and the
10 accompanying Prohibitory Writ of Mandate be modified to extend the period of relief to July 1, 2023.

11 As grounds for this Stipulation, the Parties state as follows:

12 1. Proposition 12 is a statewide statutory initiative measure that establishes
13 standards of confinement for certain farm animals, including breeding pigs. (See Health & Saf. Code,
14 §§ 25990 et seq.) Under the measure, the State was required to adopt implementing regulations by
15 September 1, 2019, and the provisions relating to the confinement of breeding pigs were scheduled to
16 go into effect on January 1, 2022. (*Id.*, §§ 25991(e)(3), 25993(a).)

17 2. In late 2021, shortly before the statute’s provisions relating to the confinement
18 of breeding pigs were scheduled to go into effect, the State had not yet adopted implementing
19 regulations. For that reason, Petitioners filed this action seeking a temporary delay of the enforcement
20 of Proposition 12’s provisions relating to the sale of whole pork meat in California.

21 3. After briefing and a hearing on January 21, 2022, the Court granted, in part,
22 Petitioners’ request for a prohibitory writ of mandate and declaratory relief, entered a Judgment on
23 February 2, 2022, and issued a Prohibitory Writ of Mandate on February 24, 2022. Specifically, the
24 Court “enter[ed] a declaration that the prohibition on intrastate sales of whole pork meat (whether
25 originating within or outside California) pursuant to Health and Safety Code Sections 25990(b)(2)
26 and 25991(e)(3) is not enforceable until 180 days after final regulations are enacted pursuant to
27 Section 25993(a)” and further “enjoin[ed] Attorney General Bonta, District Attorney Shubert (*sic*),
28

1 district attorneys statewide and city attorneys statewide from enforcing the prohibition on intrastate
2 sales of whole pork meat (whether originating within or outside California) pursuant to Health and
3 Safety Code Sections 25990(b)(2) and 25991(e)(3) until 180 days after final regulations are enacted
4 pursuant to Section 25993(a).” The Court “denie[d Petitioners’] request for a writ enjoining the same
5 public prosecutors for a longer period of time[.]” (Judgment, ¶ 1; Prohibitory Writ of Mandate at 2.)

6 4. In its Judgment, the Court expressly retained jurisdiction over this matter “to
7 modify the relief granted in light of changing circumstances.” (Judgment, ¶ 2.) Correspondingly, the
8 Court included in its Order a provision permitting the parties to return to the Court “for any appropriate
9 adjustment” to the 180-day period. (Judgment, Exh. A at 10 [“Amended Final Order”].)

10 5. After this Court ruled, the United States Supreme Court granted certiorari in
11 *National Pork Producers Council v. Ross* (March 28, 2022) 142 S. Ct. 1413 to determine whether
12 petitioners National Pork Producers Council and American Farm Bureau Federation stated a claim that
13 Proposition 12 violates the dormant Commerce Clause of the United States Constitution. The Supreme
14 Court held oral argument in the matter on October 11, 2022. A decision is expected in Spring, 2023.

15 6. The State adopted final regulations implementing Proposition 12 on
16 September 1, 2022. (See Cal. Code Regs., tit. 3, §§ 1320-1327.3.) Those regulations took immediate
17 effect, thereby triggering the start of the 180-day injunction against enforcement that the Court granted
18 in its Judgment and the Prohibitory Writ of Mandate. Accordingly, the 180-day injunction against
19 enforcement is due to expire on February 28, 2023.

20 7. The State has appealed the Court’s decision in this matter, filing a Notice of
21 Appeal on February 18, 2022, and initiating Case No. C095799 in the Third District Court of Appeal.
22 However, on November 7, 2022, prior to filing any briefing on the merits, the State filed a request with
23 the Court of Appeal asking that the appeal in this case be held in abeyance, which the Petitioners did
24 not oppose. The Court of Appeal granted the State’s request, in part, staying briefing in the matter
25 until February 28, 2023, with a status update due to the Court by February 1, 2023.

26 8. Given these new factual developments, a significant issue of timing has arisen in
27 this matter: the injunction against enforcement is set to expire on February 28, 2023, yet the United
28

1 States Supreme Court's upcoming decision will generate controlling law that could impact
2 Proposition 12's implementation and enforcement.

3 9. For those reasons, Petitioners believe that the Judgment and Prohibitory Writ of
4 Mandate should be modified to extend the court's existing injunction to July 1, 2023. While
5 Respondents do not believe that the challengers in *National Pork Producers Council* will or should
6 prevail before the Supreme Court, Respondents do not oppose Petitioners' request to extend the
7 existing injunction to July 1, 2023.

8 10. Nothing in this stipulation shall be construed as an admission concerning the
9 merits of this lawsuit. The Parties reserve all claims and defenses.

10 11. The Parties request that, consistent with its previous Order and Judgment, the
11 Court continue to retain jurisdiction over this matter to modify the relief granted in light of changing
12 circumstances. This stipulation is without prejudice to further requests for extensions by one or more
13 parties if circumstances warrant.

14 //
15 //
16 //
17 //
18 //
19 //
20 //
21 //
22 //
23 //
24 //
25 //
26 //
27 //

28

1 WHEREFORE, the Parties jointly request that the Court modify the Judgment and
2 Prohibitory Writ of Mandate to extend the court's existing injunction to July 1, 2023.

3
4 Dated: November 21, 2022


Respectfully submitted,
OLSON REMCHO, LLP

5 By: 
6 Aaron D. Silva

7 Attorneys for Petitioners and Plaintiffs
8 California Hispanic Chambers of Commerce;
9 Kruse & Son, Inc.; California Grocers Association;
10 California Restaurant Association; and California
11 Retailers Association

12 Dated: November 23, 2022

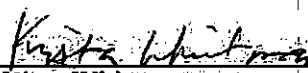
OFFICE OF THE CALIFORNIA ATTORNEY
GENERAL

13 By: 
14 Natasha Saggar Sheth
15 Deputy Attorney General

16 Attorneys for Respondents and Defendants
17 Karen Ross, Tomás J. Aragón, and Rob Bonta

18 Dated: November 21, 2022

OFFICE OF THE SACRAMENTO COUNTY
COUNSEL

19 By: 
20 Krista Whitman
21 Assistant County Counsel

22 Attorneys for Respondent and Defendant
23 Anne Marie Schubert

1 **[PROPOSED] ORDER**

2 Based on the foregoing, and good cause appearing, IT IS HEREBY ORDERED:

3 The Court finds that, since the State adopted regulations implementing Proposition 12
4 on September 1, 2022, the 180-day period enjoining enforcement of Proposition 12's "prohibition on
5 intrastate sales of whole pork meat (whether originating within or outside California) pursuant to
6 Health and Safety Code Sections 25990(b)(2) and 25991(e)(3)," as stated in the Court's February 2,
7 2022, Judgment and Prohibitory Writ of Mandate, is set to expire on February 28, 2023;

8 The Court also finds that the Parties have made a sufficient showing that changed
9 circumstances, including the United States Supreme Court's pending review of a case challenging the
10 constitutionality of Proposition 12, warrant an extension of the existing injunction;

11 Based on the representations of the Parties, the Court finds that it is reasonable to
12 extend the existing injunction to July 1, 2023, so as to allow adequate time for the adjudication of the
13 federal constitutional issues relating to Proposition 12 that are pending before the United States
14 Supreme Court;

15 The Court therefore orders that the declaratory and injunctive relief, as imposed by the
16 Court in its February 2, 2022, Judgment and Prohibitory Writ of Mandate, is hereby extended to July 1,
17 2023. The Court further orders that the previously entered Judgment and Prohibitory Writ of Mandate
18 shall be amended accordingly.

19 The Court will continue to retain jurisdiction over this matter to further modify the
20 relief granted in light of changing circumstances.

21 DATED: *JF MW 2022*



22 *[Signature]*
23 THE HON. JAMES P. ARGUELLES
24 JUDGE OF THE SUPERIOR COURT

1 **PROOF OF SERVICE**

2 I, the undersigned, declare under penalty of perjury that:

3 I am a citizen of the United States, over the age of 18, and not a party to the within
4 cause of action. My business address is 555 Capitol Mall, Suite 400, Sacramento, California 95814.

5 On November 23, 2022, I served a true copy of the following document(s):

6 **Joint Stipulation of All Parties Requesting Modification of February 2, 2022**
7 **Judgment and Writ of Mandate Due to Changed Circumstances; [Proposed] Order**

8 on the following parties in said action:

9 Marla R. Weston
10 Sarah M. Barnes
11 Natasha Sagar Sheth
12 Deputy Attorneys General
13 Office of the California Attorney General
14 455 Golden Gate Avenue, Suite 11000
15 San Francisco, CA 94102-7004
16 Phone: (415) 510-3818
17 Fax: (415) 703-5480
18 Email: Natasha.Sheth@doj.ca.gov
19 Marla.weston@doj.ca.gov
20 Sarah.barnes@doj.ca.gov

*Attorneys for Respondents and Defendants
Karen Ross, Tomás J. Aragón, and Rob
Bonta*

21 Krista Whitman, Asst. County Counsel
22 Office of Sacramento County Counsel
23 700 H Street, Room 2650
24 Sacramento, CA 95814
25 Phone: (916) 874-5813
26 Email: whitmank@saccounty.net


*Attorneys for Respondent and Defendant
Anne Marie Schubert*

- 27 **BY UNITED STATES MAIL:** By enclosing the document(s) in a sealed
28 envelope or package addressed to the person(s) at the address above and
- depositing the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - placing the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, located in Sacramento, California, in a sealed envelope with postage fully prepaid.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- BY OVERNIGHT DELIVERY:** By enclosing the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- BY MESSENGER SERVICE:** By placing the document(s) in an envelope or package addressed to the persons at the addresses listed and providing them to a professional messenger service for service.
- BY FACSIMILE TRANSMISSION:** By faxing the document(s) to the persons at the fax numbers listed based on an agreement of the parties to accept service by fax transmission. No error was reported by the fax machine used. A copy of the fax transmission is maintained in our files.
- BY EMAIL TRANSMISSION:** By emailing the document(s) to the persons at the email addresses listed based on a court order or an agreement of the parties to accept service by email. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on November 23, 2022, in Sacramento, California.



Heather Perryman

(00477263-10)