

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

GROCERY MANUFACTURERS)	
ASSOCIATION, SNACK FOOD)	
ASSOCIATION, INTERNATIONAL)	
DAIRY FOODS ASSOCIATION, and)	
NATIONAL ASSOCIATION OF)	
MANUFACTURERS,)	
)	
Plaintiffs,)	
)	
v.)	
)	
WILLIAM H. SORRELL, in his official)	Case No. 5:14-cv-117-cr
capacity as the Attorney General of)	
Vermont; PETER SHUMLIN, in his official)	
capacity as Governor of Vermont; HARRY)	
L. CHEN, in his official capacity as)	
Commissioner of the Vermont Department)	
of Health; and JAMES B. REARDON, in)	
his official capacity as Commissioner of the)	
Vermont Department of Finance and)	
Management,)	
)	
Defendants.)	

JOINT MOTION TO AMEND DISCOVERY SCHEDULE

The parties respectfully move the Court for an order amending the Discovery Schedule the Court entered on September 29, 2015, Dkt. No. 120, to suspend the remaining discovery and motions deadlines and reset the trial-ready date.

This case has proceeded on dual tracks since the Court's April 27, 2015 opinion and order denying in part Defendants' motion to dismiss and denying Plaintiffs' motion for a preliminary injunction. *See* Dkt. No. 95. Following Plaintiffs' May 6, 2015 notice of appeal from the Court's order denying their motion for a preliminary injunction, *see* Dkt. No. 96, the parties submitted briefs to the United States Court of Appeals for the Second Circuit on an

expedited schedule. The Second Circuit held oral argument on October 8, 2015. Meanwhile, the parties moved forward with fact discovery and disclosed additional expert reports. *See* Dkt. Nos. 120, 127, 128.

Pursuant to the existing schedule, the parties' next task is to complete the exchange of rebuttal reports in response to the additional experts and the depositions of expert witnesses by February 22, 2016 and March 21, 2016, respectively. *See* Dkt. No. 120.¹ The parties must then complete expert discovery and answer requests for admission by April 18, 2016. *Id.* Any motions are due April 22 and the case is scheduled to be trial-ready by April 29, 2016. *Id.*

The parties agree that their completion of expert discovery and preparation for trial would benefit substantially from an opinion by the Second Circuit on the legal issues at the heart of this case. Good cause supports suspending discovery and motions deadlines because it will allow the parties to tailor their preparation of the record to address the burdens and standards the Second Circuit articulates in resolving the pending appeal and, in turn, enhance the efficiency of the Court's consideration of the case.

The parties are mindful of the expedited nature of this case at each stage of the proceedings in light of Act 120's July 1, 2016 effective date. In an effort to prepare this case for trial efficiently and in accordance with the Second Circuit's expected forthcoming guidance, the parties propose to suspend the remaining discovery and motions deadlines and amend the schedule entered September 29, 2015, *see* Dkt. No. 120, as follows²:

¹ The parties mutually agreed to suspend the February 22 deadline for rebuttal expert reports as they conferred regarding the schedule.

² The parties jointly propose this adjustment to future deadlines (beginning with the February 22, 2016 deadline regarding expert rebuttal reports). The parties disagree with respect to Defendants' request for clarification or extension of the November 24, 2015 fact discovery deadline. *See* Dkt. Nos. 129, 130.

1. All remaining deadlines for discovery and dispositive motions shall be suspended, beginning with the February 22 deadline;
2. At which time the Second Circuit issues its decision on the appeal, the parties will meet and confer regarding a revised schedule and will submit a proposal to the Court within 14 days.
3. The April 29, 2016 trial-ready date shall be moved to May 31, 2016.

The parties further request a status conference with the Court during the week of May 2, 2016. In the event that the Second Circuit has not yet issued an opinion, the parties will propose an amended schedule for the Court's consideration.

DATE: February 23, 2016

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Respectfully submitted,

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