

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

ORGANIC TRADE ASSOCIATION,

Plaintiff,

v.

**UNITED STATES DEPARTMENT OF
AGRICULTURE, *et al.*,**

Defendants.

Civil Case No. 1:17-cv-01875-RMC

**PLAINTIFF’S REQUEST FOR ORAL ARGUMENT AND IDENTIFICATION OF
UNCONFLICTED DATES**

Pursuant to LCvR. 7 Plaintiff OTA respectfully requests an opportunity to present oral argument regarding Defendants’ opposition to the filing of the Plaintiff’s Second Amended Complaint (“SAC”) and Defendants’ Motion to Dismiss under Rule 12 (b)(1) and 12 (B)(6) of the Rules of Civil Procedure.

1. Plaintiff’s proposed SAC was submitted following Defendants’ multiple rulemakings and administrative actions covering a 16-month period. It presents first impression issues arising under the Organic Foods Production Act (“OFPA”) and the Administrative Procedure Act (“APA”).
2. Among the unique issues presented in this case are the role of the National Organic Program (“NOP”) rules in ensuring fair competition by and between certified organic operations and the role of the USDA Organic Seal in assuring consumers that a single national organic product standard is consistently applied by the NOP’s certifying agents and the role of the National Organic Standards Board in organic rulemaking (“NOSB”).

3. The Defendants have challenged Plaintiff and its members' standing to contest the repeated delay and ultimate withdrawal of an organic regulation, 82 Fed. Reg. at 7042-92 (January 19, 2017) (*Organic Livestock and Poultry Practices Final Rule*) (hereinafter, "OLPP") that expressly sought to ensure fair competition, and reduce consumer confusion, and bolster consumer reliance and trust in the NOP's Organic Seal. *See generally Id.*
4. Defendants contend OTA, and its certified-organic members, and accredited certifying agents, and members of the NOSB, have not suffered a concrete injury traceable to the defendants' delays and ultimate withdrawal of the OLPP. *See generally ECF No. 43* (Defendants' Motion to Dismiss) Defendants' also seek to extinguish Counts 1 and 3 of the SAC arguing *inter alia* that this court impose a novel construction of the OFPA's pre-rulemaking requirements. *Id.*
5. Plaintiff believes oral argument would assist the court in resolving these critical legal issues and conferred with Plaintiff's counsel pursuant to LCvR. 16.2 regarding unconflicted dates for a hearing.
6. Undersigned counsel was requested to place the following statement in Plaintiff's request: "The government believes the two pending motions to dismiss can be decided on the papers and oral argument is not necessary. If the Court is inclined to hold oral argument, for the Court's awareness, government counsel will not be available from July 2-6 or from July 31-August 8."
7. Counsel for Plaintiff is unavailable June 25-July 6, and July 23-28.

Respectfully Submitted:

/s/ William J. Friedman

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