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ATTORNEYS FOR PETITIONERS/PLAINTIFFS

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF WYOMING

RANCHERS CATTLEMEN ACTION)	
LEGAL FUND UNITED)	
STOCKGROWERS OF AMERICA;)	
TRACY and DONNA HUNT, d/b/a THE MW)	
CATTLE COMPANY, LLC; and KENNY and)	
ROXY FOX,)	No. 19-CV-205-F
)	
Petitioners/Plaintiffs,)	
)	
vs.)	
)	
UNITED STATES DEPARTMENT OF)	
AGRICULTURE; ANIMAL AND PLANT)	
HEALTH INSPECTION SERVICE;)	
SONNY PERDUE, in his official)	
capacity as the Secretary of Agriculture;)	
and KEVIN SHEA, in his official)	
capacity as Administrator of the Animal)	
and Plant Health Inspection Service,)	
)	
Respondents/Defendants.)	

**PLAINTIFFS’ MOTION TO COMPEL RESPONSIVE
PLEADING OR, ALTERNATIVELY, TO PERMIT DISCOVERY**

Plaintiffs Ranchers Cattlemen Action Legal Fund United Stockgrowers of America, *et al.*
(collectively, “R-CALF”), by and through their attorneys, the New Civil Liberties Alliance and

Harriet M. Hageman, hereby move this Honorable Court for an Order allowing them to proceed with their Federal Advisory Committee Act (FACA) claims pursuant to the regular rules of civil procedure rather than under the requirements of Local Rule 83.6, and to require Defendants to file an answer or other responsive pleading to the Amended Complaint. Although Fed.R.Civ.P. 12(a)(2) required Defendants U.S. Department of Agriculture, *et al.* (collectively, “USDA”), to file an answer or other responsive pleading within 60 days, USDA has not done so.

Alternatively, if the Court determines that the case should proceed pursuant to Local Rule 83.6 and on the basis of an administrative record, R-CALF requests that it be permitted to engage in discovery for the purpose of supplementing the record. The APA does not permit the federal government to limit evidence considered by a district court to documents the government agency being sued has unilaterally selected for submission to the court. Rather, the APA provides that courts reviewing agency action must review “the whole record” to determine whether that action is lawful. 5 U.S.C. § 706.

R-CALF has filed contemporaneously herewith a Memorandum in Support of this motion. A proposed order is also being provided.

Pursuant to Local Rule 7.1(b)(1)(A), counsel for Plaintiffs conferred by telephone with Nicholas Vassallo, the attorney for Defendants, explaining the relief requested and the basis for this motion. Mr. Vassallo stated that Defendants oppose the relief requested herein.

WHEREFORE, Plaintiffs respectfully request this Court to grant their Motion to proceed with their FACA claims pursuant to the regular rules of civil procedure, to compel Defendants to file a responsive pleading, to be allowed to pursue discovery, and for such other relief as is just under the circumstances.

Dated this 17th day of August 2020.

Attorneys for Petitioners/Plaintiffs

/s/ Harriet M. Hageman

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Senior Litigation Counsel

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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that on August 17, 2020, a copy of **PLAINTIFFS' MOTION TO COMPEL RESPONSIVE PLEADING OR, ALTERNATIVELY, TO PERMIT DISCOVERY** was filed with the Court's CM/ECF system, which will send notice of electronic filing to the counsel of record.

/s/ Harriet M. Hageman

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