

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION

ADAM FAUST,

Plaintiffs,

v.

BROOKE ROLLINS, in her official capacity
as United States Secretary of Agriculture,

Defendant.

Case No. 1:25-cv-854

CONSENT MOTION TO STAY

Defendant U.S. Department of Agriculture (“USDA”) hereby respectfully requests that the Court stay this litigation—including Defendant’s deadline to answer the complaint—for 60 days, until February 20, 2025. Defendant has conferred with Plaintiff, who has consented to the relief requested herein. As good cause for this relief, Defendant represents the following:

1. On June 16, 2025, Plaintiff filed a complaint bringing equal protection challenges to the “socially disadvantaged” designation in three USDA programs. *See, e.g.*, Compl. ¶¶ 21, 33, 42, 50, ECF No. 1.
2. Defendant’s response to the complaint in this action is due by December 22, 2025. *See* Order, ECF No. 12.
3. USDA is currently defending a similar challenge in *Strickland v. USDA*, No. 2:24-cv-60 (N.D. Tex.), in which the plaintiffs brought equal protection claims against the “socially disadvantaged” designation in certain other USDA programs. On February 10, 2025, the government filed a statement in *Strickland* explaining that “the Department of Justice has determined that the [USDA] programs at issue in this case are unconstitutional to the extent they

include preferences based on race and sex,” and moreover that “USDA has independently determined that it will no longer employ the race- and sex-based ‘socially disadvantaged’ designation to provide increased benefits based on race and sex in the programs at issue in this case.” Resp. to the Court’s Jan. 27, 2025 Order, *Strickland*, No. 2:24-cv-60 (N.D. Tex. Feb. 10, 2025), ECF No. 52.

4. On July 10, 2025, USDA published a final rule amending the regulations of multiple USDA programs to remove the use of the race- and sex-based “socially disadvantaged” designation when determining benefits under the programs at issue in that rulemaking. *See Removal of Unconstitutional Preferences Based on Race and Sex in Response to Court Ruling*, 90 Fed. Reg. 30555 (July 10, 2025) (“July 10 Final Rule”). The final rule explained that USDA concluded that the “socially disadvantaged” designation “is inconsistent with constitutional principles and the administration’s policy objectives.” *See id.* at 30556.

5. One of the three challenged programs here is the Loan Guarantee Program. *See* Compl. ¶¶ 40–44. The July 10 Final Rule included amendments to the regulatory language for that program to remove the use of the race- and sex-based “socially disadvantaged” designation. *See* 90 Fed. Reg. at 30556 (noting amendments to “Guaranteed Farm Loans” program under 7 C.F.R. Part 762); *see id.* at 30559 (providing amendments to 7 C.F.R. §§ 762.129–30).

6. USDA is considering how to implement the administration’s position regarding the remaining two programs challenged in this case, including the Dairy Margin Coverage Program, 7 U.S.C. § 9054, and the Environmental Quality Incentives Program, 16 U.S.C. § 3839aa-2, *see* Compl. ¶¶ 29–39, 45–50.

7. The parties have productively engaged in discussions exploring procedures that could most efficiently address and resolve the issues raised in this case regarding the remaining two programs.

Given the administrative delays caused by the recent 43-day lapse in appropriations, and the upcoming holiday season, the parties agree that additional time is needed to continue these discussions.

8. Accordingly, Defendant requests that the Court stay all further litigation for another 60 days, including Defendant's December 22, 2025 deadline to respond to the complaint. Defendant's deadline to respond to the complaint would be updated to February 20, 2025.

Dated: December 17, 2025

Respectfully submitted,

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