

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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MINERVA DAIRY, INC., and ADAM  
MUELLER,

Civil Action No. 17-cv-299

Plaintiffs,

v.

**COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

BEN BRANCEL, in his official capacity as the Secretary of the Wisconsin Department of Agriculture, Trade and Consumer Protection; BRAD SCHIMEL, in his official capacity as the Attorney General for the state of Wisconsin; and PETER J. HAASE, in his official capacity as the Bureau Director of the Division of Food and Recreational Safety within the Wisconsin Department of Agriculture, Trade and Consumer Protection,

Defendants.

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**INTRODUCTION**

1. Adam Mueller is the President of Minerva Dairy, Inc., a successful, family-owned business that has produced artisanal, Amish-churned butter from its Ohio facilities since 1935. Minerva Dairy sells millions of batches of its artisan butter to consumers in every state in the United States. Wisconsin, however, has recently prohibited Minerva Dairy from selling its butter to Wisconsin consumers by enforcing an antiquated statute that prohibits butter from being sold in Wisconsin unless it has first been graded by either a Wisconsin-licensed butter grader or the USDA. *See* Wis. Stat. § 97.176.

2. Butter grading is essentially a matter of taste, and Wisconsin has no constitutional basis to require Plaintiffs to conform Minerva Dairy butter to a Wisconsin government-mandated taste. Minerva Dairy butter is safe, legal, and its slow-churned taste is enjoyed by its consumers

nationwide. By prohibiting ungraded butter from being sold in Wisconsin, Defendants make it cost-prohibitive for out-of-state artisanal butter makers to sell their butter in Wisconsin, and the prohibition therefore amounts to an artisanal butter ban. Plaintiffs bring this lawsuit to vindicate their federal constitutional rights under Article I, Section 8, Clause 3 (the dormant Commerce Clause), the Due Process Clause of the Fourteenth Amendment, and the Equal Protection Clause of the Fourteenth Amendment.

### **JURISDICTION AND VENUE**

3. Plaintiffs Adam Mueller and Minerva Dairy, Inc., bring this civil rights lawsuit pursuant to 42 U.S.C. § 1983, for the violation of rights secured by Article I, Section 8, Clause 3 of the United States Constitution, and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution.

4. Jurisdiction over Plaintiffs' claims for declaratory and injunctive relief is vested in this Court by 28 U.S.C. §§ 1331 (federal question), 1343 (civil rights), and 2201-2202 (the Declaratory Judgment Act).

5. Venue is proper in this Court, pursuant to 28 U.S.C. § 1391(b), on the ground that all or a substantial part of the acts giving rise to Plaintiffs' claims occur in the Western District of Wisconsin, and on the ground that some or all of the Defendants reside in the Western District of Wisconsin.

### **PARTIES**

#### **PLAINTIFFS**

6. Plaintiff Adam Mueller is a United States citizen and resident of Minerva, Ohio. Mueller has been involved in his family-owned butter making business since he was a boy. He co-

owns Minerva Dairy with his sister and their father. Mueller has been President of Minerva Dairy since 2010.

7. Plaintiff Minerva Dairy, Inc., is a C Corporation based in Minerva, Ohio. Minerva Dairy, Inc., is a successful family-owned dairy business that has sold its cheeses and Amish-churned butters in every state in the nation. Minerva Dairy was founded in 1894, when Max P. Radloff established Radloff Cheese in Hustiford, Wisconsin.

8. In 1935, Minerva Dairy moved to Minerva, Ohio, and began producing bottled milk, ice-cream, butter, and cheese. Today, Minerva Dairy is in its 5th and 6th generations of family ownership. Minerva Dairy produces Amish Butter, as well as cheese that includes Cheddar, Swiss, Italian, and Kosher varieties. Minerva Dairy has approximately 75 employees.

9. Minerva Dairy prides itself on the distinction between its family-crafted “artisanal butter” and mass-produced, commodity butter that is made by large-scale butter makers.

10. Plaintiffs possess all legally required licenses and approvals to sell their butter in the United States. Plaintiffs are ready, willing, and able to sell their Amish-churned butter throughout Wisconsin at any time when such opportunities arise.

### **DEFENDANTS**

11. Defendant Ben Brancel is the Secretary of the Wisconsin Department of Agriculture, Trade and Consumer Protection. Mr. Brancel is responsible for enforcing Wis. Stat. § 97.176, which makes it illegal to sell ungraded butter, such as Minerva butter, in Wisconsin. Mr. Brancel, in his official capacity, is authorized to adopt any rules and establish any policy to implement Wis. Stat. § 97.176. In all of his actions and omissions alleged herein, Mr. Brancel was acting under the color of state law and is being sued in this action in his official capacity pursuant to *Ex parte Young*, 209 U.S. 123 (1908).

12. Defendant Brad Schimel is the Attorney General for the State of Wisconsin. Mr. Schimel is charged with enforcing the criminal penalties prescribed by Wis. Stat. § 97.176. Mr. Schimel has the authority to enjoin, fine, and otherwise prohibit Plaintiffs from selling their butter in the State of Wisconsin. In all of his actions and omissions alleged herein, Mr. Schimel was acting under the color of state law and is being sued in this action in his official capacity pursuant to *Ex parte Young*, 209 U.S. 123 (1908).

13. Defendant Peter J. Haase is the Bureau Director of the Division of Food and Recreational Safety within the Wisconsin Department of Agriculture, Trade and Consumer Protection. Mr. Haase, in his official capacity, is authorized to send “cease or desist” letters to perceived violators of the artisanal butter ban. Mr. Haase, in an email to Adam Mueller, told Mr. Mueller to “have any and all ungraded butter removed from retail sale in Wisconsin retail outlets immediately.” In all of his actions and omissions alleged herein, Mr. Haase was acting under the color of state law and is being sued in this action in his official capacity pursuant to *Ex parte Young*, 209 U.S. 123 (1908).

## **FACTUAL ALLEGATIONS**

### **WISCONSIN’S ARTISANAL BUTTER BAN**

14. Wisconsin Statute Section 97.176(1) (artisanal butter ban) makes it “unlawful to sell, offer or expose for sale, or have in possession with intent to sell, any butter at retail unless it has been graded.”

15. Wisconsin is the only state that requires butter to be graded to be sold within the state. Neither the United States Department of Agriculture nor 49 other states in the nation require butter to be graded in order to be legally sold to consumers.

16. Butter sold in Wisconsin must contain a Wisconsin grade, Wis. Stat. § 97.176(1), or a United States grade accepted in lieu of the corresponding Wisconsin grade. *Id.* § 97.176(2). Butter sold within Wisconsin must also be affixed with a label that indicates that the butter complies with Wisconsin grading requirements. Wis. Stat. § 97.176(5).

17. A violation of the artisanal butter ban triggers a fine between \$100 to \$1,000 dollars or imprisonment up to six months for the first offense. For each subsequent offense, a fine between \$500 and \$5,000 or imprisonment between 30 days and one year in county jail or both. *See* Wis. Stat. § 97.72(1).

18. Wisconsin prosecutors may also require anyone who violates the artisanal butter ban to forfeit up to \$1,000 for each violation in lieu of criminal penalties. Wis. Stat. § 97.72(2).

19. In addition, Wisconsin regulators may apply “to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating” the artisanal butter ban. Wis. Stat. § 97.73.

20. The Wisconsin Department of Agriculture, Division of Trade and Consumer Protection, is tasked with enforcing Wisconsin’s artisanal butter ban.

21. Because Plaintiffs are not located within the State of Wisconsin, they are not eligible to have their butter graded onsite by Wisconsin-licensed butter graders.

22. To sell their butter in Wisconsin, Plaintiffs must have each batch of their slow-churned butter independently graded by a USDA official. Because Plaintiffs produce multiple batches of butter a day, selling USDA-graded butter is cost-prohibitive.

23. Plaintiffs are informed and believe, and on that basis allege, because of the significant costs required to sell graded butter, USDA-graded butter is only produced by large butter makers who sell commodity butter.

24. In addition to the significant costs, Plaintiffs also do not want to sell and market graded butter, because graded butter is associated with mass-produced commodity butter with a government-mandated taste.

25. Plaintiffs are informed and believe, and on that basis allege, that the artisanal butter ban does not further an interest in health and safety.

26. In contrast to butter inspection, which ensures that the butter comports with health and safety regulations, butter grades are used only to ensure a government-mandated taste.

### **THE BUTTER GRADING PROCESS**

27. Wisconsin law specifies that the grading of butter consists principally of an “examination for flavor and aroma, body and texture, color, salt, package and by the use of other tests or procedures approved by the department for ascertaining the quality of butter in whole or part.” Wis. Stat. § 97.176(3).

28. No person may act as a butter grader without a license granted by the Department of Agriculture, Trade and Consumer Protection. Wisconsin-approved butter graders must grade butter in accordance with the specifications listed in Wis. Stat. § 97.176 and its implementing regulations.

29. Wisconsin regulations specify a set of “sequential steps” for a Wisconsin butter grader to ensure that butters sold in the state achieve the government-mandated taste. Wis. Admin. Code ATPC § 85.02.

30. A government taste tester first samples the butter to determine “[e]ach applicable flavor characteristic of the sample” and “relative intensity of the characteristic.” Wis. Admin. Code ATPC § 85.02(1). The taste tester then assigns a “preliminary letter grade designation” based on the sample’s flavor characteristic and intensity. *Id.*

31. The regulations then provide for a list of 18 flavor characteristics, “organoleptically determined by taste and smell.” Wis. Admin. Code ATP § 85.04(1)(a). These characteristics include: “Acid” which means “the butter lacks a delicate flavor or aroma and is associated with a lactic acid condition, which is present as a result of the use of a lactic acid producing culture, but there is no indication of sourness”; “Bitter,” which the government defines as having “an astringent effect, similar to the taste of quinine, and produces a puckery sensation”; “Flat,” which means “the absence or lack of a natural butter flavor.” *Id.*

32. The government taste tester must discern the “intensity” of these characteristics as “slight,” “definite,” or “pronounced,” Wis. Admin. Code ATP § 85.04(2), and award a preliminary letter grade to the butter using the table provided under Wis. Admin. Code ATP § 85.05(1). A true and correct copy of the table is attached to this complaint as Exhibit 1.

33. The government test taster next samples butter to detect “applicable body, color, and salt characteristic[s].” Wis. Admin. Code ATP § 85.02(1). Based on these characteristics, and the intensity of these characteristics, the government taste tester gives the sample “requisite disratings” using the tables provided under Wis. Admin. Code ATP § 85.05(2). A true and correct copy of the table is attached to this complaint as Exhibit 2.

34. The eight different “body characteristics” include “Crumbly,” which means “the butter particles lack cohesion, have the tendency to break easily and lack plasticity” and “Short,” which means “a short-grained texture, lacking in plasticity, and tending toward brittleness, but not to the extent of being ‘crumbly.’” Wis. Admin. Code ATP § 85.04(1)(b).

35. The four different “color characteristics” include “streaked,” which means “the coloration appears as light colored portions surrounded by more highly colored portions.” Wis. Admin. Code ATP § 85.04(1)(c). The two different “salt characteristics” include “gritty,” which

means “the butter is characterized by sandlike feel of grains of undissolved salt on the tongue or between the teeth when the butter is chewed.” Wis. Admin. Code ATPC § 85.04(1)(d).

36. The final Wisconsin butter grade is established using the tables under Wis. Admin. Code ATPC § 85.05(2), (3), and (4). *See* Wis. Admin. Code ATPC § 85.02. A true and correct copy of the table provided in Wis. Admin. Code ATPC § 85.05(2) is attached as Exhibit 2.

37. A true and correct copy of the table provided in Wis. Admin. Code ATPC § 85.05(3) is attached as Exhibit 3.

38. A true and correct copy of the table provided in Wis. Admin. Code ATPC § 85.05(4) is attached as Exhibit 4.

39. After this multi-step process, Wisconsin regulators affirm that Wisconsin Grade AA butter possesses a “fine and highly pleasing butter flavor,” Wisconsin Grade A butter possesses “a pleasing and desirable butter flavor,” and Wisconsin Grade B butter possesses “a fairly pleasing butter flavor.” Butter that fails to meet the requirements for Wisconsin Grade B is identified as Wisconsin Undergrade Butter. Wis. Admin. Code ATPC § 85.03(1)-(4).

40. The United States Department of Agriculture has similar criteria for grading butter in the United States. *See* United States Department of Agriculture, Agricultural Marketing Service, *Butter Grades and Standards*, <https://www.ams.usda.gov/grades-standards/butter-grades-and-standards>. However, butter grading with the USDA is purely voluntary, and the USDA does not require butter to be graded to be sold in the United States. *See* 60 Fed. Reg. 62172-01 (Dec. 4, 1995).

**PLAINTIFFS ARE LEGALLY BARRED FROM SELLING  
THEIR SAFE, ARTISAN BUTTER IN WISCONSIN**

41. Plaintiffs’ butter is inspected by the USDA and complies with all health and safety regulations imposed by the United States and Wisconsin, except for Wisconsin’s requirement that

all butter sold in the state be graded. Plaintiffs do not make or sell graded butter. Because of the artisanal butter ban, Plaintiffs have been ordered to cease and desist selling Minerva Dairy butter in Wisconsin. Plaintiffs will be subject to future penalties if they sell Minerva Dairy butter in Wisconsin.

42. From the mid-1980s until early 2017 (when Wisconsin began enforcing Wis. Stat. § 97.176), Plaintiffs sold butter in Wisconsin without incident. Plaintiffs currently sell butter in every state in the United States except for Wisconsin.

43. Although Wisconsin butter makers can get their butter graded on-site by Wisconsin-certified butter graders, Plaintiffs do not have the same opportunity, because Minerva Dairy is located in Ohio.

44. In order to comply with Wisconsin's artisanal butter ban, Plaintiffs would have to pay the costs (travel and time) for a USDA-certified butter grader to grade butter at Plaintiffs' facilities. The nearest USDA butter grader to Minerva Dairy is located in Chicago. Unlike large-commodity butters, Plaintiffs' butter is produced in separate batches every two hours, totaling 14 to 18 batches of butter per day. In order to comply with Wisconsin's artisanal butter ban, Plaintiffs would need to assume these costs on batches which they predetermine have some possibility of ultimately being sold in Wisconsin.

45. To sell their artisanal butter in Wisconsin, Plaintiffs would also be required to create Wisconsin-specific labels for their butter. These Wisconsin-specific burdens are compounded because Plaintiffs sell their butter both online and through regional distributors that cover multiple states.

46. In all, Wisconsin's butter grading requirement makes it cost-prohibitive for Plaintiffs to sell their artisanal butter in Wisconsin.

47. On February 7, 2017, Adam Mueller received an email from Peter J. Haase, Bureau Director, Division of Food and Recreational Safety within the Wisconsin Department of Agriculture, Trade and Consumer Protection. Mr. Haase explained that “he will be sending a formal letter from our department issueing [sic] a cease and desist the sale of ungrade [sic] butter at the retail level in the state of Wisconsin. If further regulatory action is warranted, we will not hesitate to move forward. It is in your company’s best interest to have any and all ungraded butter removed from retail sale in Wisconsin retail outlets immediately.” A true and correct copy of this email is attached to this complaint as Exhibit 5.

48. On February 28, 2017, Cathy Klecker, a regulatory specialist from Wisconsin’s Division of Food and Safety, sent Minerva Dairy a **“Warning Letter”** regarding **“Butter grading and labeling violations.”** Klecker’s warning letter stated that the “Wisconsin Department of Agriculture, Trade, and Consumer Protection [Division] received an anonymous complaint about ungraded butter being sold” in Geneva, Wisconsin. The letter stated that sale of Minerva Dairy’s Amish butter was “found in violation of § 97.176 Wisconsin Statutes, and § ATCP 85.06, Wisconsin Administrative Code, relating to butter grading and labeling.” A true and correct copy of the letter is attached to this complaint as Exhibit 6.

**THE CHALLENGED LAWS PREVENT PLAINTIFFS  
FROM SELLING BUTTER IN WISCONSIN**

49. The USDA allows Minerva Dairy butter to be sold in the United States and it complies with all federal and Wisconsin regulations except for Wisconsin’s artisanal butter ban. Absent the artisanal butter ban, Plaintiffs would be able to sell Minerva Dairy butter in Wisconsin. Plaintiffs are threatened with fines and jail time if they were to continue to sell butter in Wisconsin without first obtaining a Wisconsin or United States grade. Plaintiffs are unwilling to incur fines or suffer jail time in order to sell butter in Wisconsin.

50. Plaintiffs are informed and believe, and on that basis allege, that Wisconsin's artisanal butter ban imposes significant costs on out-of-state butter makers, especially those who make artisanal butter. This reduces competition for Wisconsin-based butters, which allows Wisconsin butter makers to keep prices artificially high, to the detriment of Wisconsin consumers.

51. Plaintiffs are informed and believe, and on that basis allege, that Wisconsin's artisanal butter ban does not protect the public from fraudulent, unsafe, or incompetent practices. Instead, these statutes prevent out-of-state butter makers from selling their safe and USDA-legal butters to Wisconsin consumers.

52. Plaintiffs are informed and believe, and on that basis allege, that Wisconsin's artisanal butter ban violates their right to compete in interstate commerce without providing any legitimate local benefits that could lawfully justify such a significant restraint on commerce.

53. Plaintiffs are informed and believe, and on that basis allege, that the artisanal butter ban deprives them of the liberty of doing business in Wisconsin, without serving any legitimate governmental interest. Wisconsin's artisanal butter ban serves only the goal of protecting Wisconsin businesses from economic competition.

54. As a result of Defendants' enforcement of the artisanal butter ban, and only because of Defendants' enforcement, Plaintiffs are unable to lawfully sell butter in Wisconsin.

55. Plaintiffs are informed and believe, and on that basis allege, that the artisanal butter ban has no rational connection to the public health, safety, or welfare, or any other legitimate government interest. The statutes are arbitrary and irrational and serve only to protect Wisconsin businesses from economic competition.

56. Plaintiffs have concrete and specific plans to offer and provide butter in Wisconsin at such time they may do so without being required to grade their butter, or at such time as the challenged law is declared unconstitutional and enjoined.

## **LEGAL CLAIMS**

### **Count I: Commerce Clause**

57. Plaintiffs incorporate and re-allege each and every allegation contained in the preceding paragraphs of this complaint.

58. The Commerce Clause of the U.S. Constitution, art. I, § 8, cl. 3, creates a national market in goods and services by delegating to Congress the exclusive power to regulate interstate commerce. The Commerce Clause operates as a restraint on the legislative power of states under a doctrine known as the dormant commerce clause or the negative commerce clause.

59. Under this dormant aspect of the Commerce Clause, states are prohibited from enacting laws that either discriminate against interstate commerce or incidentally burden interstate commerce more than they benefit legitimate local interests. The artisanal butter ban does both.

60. There is an interstate market for butter in Wisconsin.

61. No individual or company may lawfully sell butter in Wisconsin without labeling that butter with a grade from the USDA or from Wisconsin.

62. Plaintiffs have sold their butter in Wisconsin for over two decades. Plaintiffs now must cease selling their Ohio-produced butter to Wisconsin residents because Plaintiffs do not get their butter graded by USDA or Wisconsin graders.

63. Wisconsin butter makers can enlist Wisconsin butter graders to grade butter at the Wisconsin butter maker's facilities. Out-of-state butter makers do not have the same opportunity. As such, the ban discriminates against out-of-state butter makers.

64. The artisanal butter ban has the purpose of protecting Wisconsin butter makers from competition by out-of-state butter makers.

65. The artisanal butter ban has the effect of protecting Wisconsin butter makers from competition by out-of-state butter makers.

66. Economic favoritism, including protecting in-state butter makers from competition from out-of-state butter makers, is not a legitimate state interest.

67. Because out-of-state butter makers cannot enlist Wisconsin butter graders, the Wisconsin grading requirements prevent out-of-state butter makers from offering their butter to Wisconsin consumers without undertaking the costly and burdensome process of obtaining a grade from an USDA grader.

68. The artisanal butter ban restricts the ability of out-of-state butter makers to sell butter within Wisconsin.

69. The artisanal butter ban places substantial burdens on interstate commerce for butter, which are not justified by any legitimate local interests or benefits.

70. The artisanal butter ban does not achieve any legitimate local benefits.

71. Defendants possess no evidence that the artisanal butter ban for butter sold in the state achieves a legitimate local benefit.

72. The artisanal butter ban violates Plaintiffs' right under the Commerce Clause of the U.S. Constitution to participate in the national marketplace and flow of interstate commerce for butter.

73. Plaintiffs have been and continue to be harmed by Wisconsin's enforcement of the artisanal butter ban.

74. Plaintiffs will continue to suffer substantial and irreparable harm unless the discrimination and burdens established by the artisanal butter ban are declared unlawful and enjoined by this Court.

### **Count II: Equal Protection**

75. Plaintiffs incorporate and re-allege each and every allegation contained in the preceding paragraphs of this complaint.

76. By granting Wisconsin butter makers the special privilege of getting their butter graded on-site by Wisconsin graders, the artisanal butter ban irrationally and arbitrarily shields Wisconsin businesses from out-of-state competition.

77. By enforcing the artisanal butter ban, Defendants, acting under color of state law, are irrationally and arbitrarily discriminating against Plaintiffs in favor of in-state businesses in violation of Plaintiffs' right to equal protection of the laws.

78. Allowing Wisconsin butter makers the exclusive opportunity to get their butter graded by Wisconsin butter graders bears no rational relationship to any legitimate governmental interest.

79. Plaintiffs are as qualified in all relevant respects to sell butter in Wisconsin as Wisconsin butter makers that sell butter in the state.

80. Plaintiffs' ungraded butter is as safe as Wisconsin-graded butter. The artisanal butter ban does nothing to ensure that butter sold to Wisconsin consumers is safer.

81. The Equal Protection Clause of the Fourteenth Amendment does not allow government to treat Plaintiffs and others similarly situated differently from Wisconsin butter makers without a rational basis.

82. Plaintiffs will continue to suffer substantial and irreparable harm unless the discrimination established by Wisconsin's artisanal butter ban is declared unlawful and enjoined by this Court.

### **Count III: Due Process**

83. Plaintiffs incorporate and re-allege each and every allegation contained in the preceding paragraphs of this complaint.

84. The artisanal butter ban does not bear any rational relationship to protecting the public health, safety, welfare, or other legitimate governmental interest.

85. The artisanal butter ban creates an arbitrary, irrational, and fundamental unfair burden, which infringe Plaintiffs' constitutional right to make a living.

86. Plaintiffs are prohibited from selling their butter in Wisconsin unless they submit to the burdensome process of getting their butter graded by USDA graders.

87. On information and belief, the purpose of the artisanal butter ban is to protect established Wisconsin butter makers from economic competition from out-of-state butter makers.

88. The practical effect of the artisanal butter ban is to protect established Wisconsin butter makers from economic competition from out-of-state butter makers.

89. There is no legitimate governmental interest advanced by the artisanal butter ban. Plaintiffs' ungraded butter is as safe as Wisconsin-graded butter. The artisanal butter ban does nothing to ensure that butter sold to Wisconsin consumers is safer. Further, the application of Wisconsin's artisanal butter ban to Plaintiffs is not rationally related to any legitimate governmental interest.

90. By enforcing the arbitrary, irrational, unequal, and fundamentally unfair procedures established by Wisconsin's artisanal butter ban, Defendants, acting under color of state law, are

depriving Plaintiffs of their constitutional right to earn a living in a chosen profession without due process of law.

91. Plaintiffs will continue to suffer substantial and irreparable harm unless the arbitrary, irrational, and fundamentally unfair procedures established by the artisanal butter ban are declared unlawful and enjoined by this Court.

### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request the following relief:

1. An entry of judgment declaring that the artisanal butter ban, Wis. Stat. § 97.176, is unconstitutional, facially and as applied to Plaintiffs, to the extent that it discriminates against interstate commerce in the sale of butter in violation of the Commerce Clause of the United States Constitution;

2. An entry of judgment declaring that the artisanal butter ban, Wis. Stat. § 97.176, is unconstitutional, facially and as applied to Plaintiffs, for depriving Plaintiffs of equal protection of the laws in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution;

3. An entry of judgment declaring that the artisanal butter ban, Wis. Stat. § 97.176, is unconstitutional, facially and as applied to Plaintiffs, for depriving Plaintiffs of liberty without due process of law in violation of the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution;

4. An entry of a preliminary and permanent injunction against Defendants prohibiting the enforcement of Wis. Stat. § 97.176, as well as any and all implementing administrative rules and regulations, and the practices and policies by which Defendants enforce these provisions;

5. An award of attorneys' fees and expenses in this action pursuant to 42 U.S.C. § 1988; and

6. An award of further legal and equitable relief as this Court may deem just and proper.

DATED: April 20, 2017.

Respectfully submitted:

/s/Joshua P. Thompson

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