

No. 23-12737

**In the United States Court of Appeals for the
Eleventh Circuit**

YIFAN SHEN, ET AL.,
Plaintiffs-Appellants,

v.

COMMISSIONER, FLORIDA DEPARTMENT OF AGRICULTURE, ET AL.,
Defendants-Appellees.

ON APPEAL FROM THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
No. 4:23-cv-00208-AW-MAF

**DEFENDANTS' TIME-SENSITIVE MOTION TO STRIKE
PLAINTIFFS' MOTION FOR INJUNCTION PENDING
APPEAL**

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**CERTIFICATE OF INTERESTED PERSONS AND
CORPORATE DISCLOSURE STATEMENT**

Defendants-Appellees certify that, to the best of their knowledge, the following is a complete list of interested persons:

1. American Civil Liberties Union Foundation,
2. American Civil Liberties Union Foundation of Florida,
3. Anti-Racism Center of LMU Loyola Law School,
4. Aoki Center for Critical Race and Nation Studies at UC Davis School of Law,
5. Arkansas, State of,
6. Asian American Legal Defense & Education Fund,
7. Asian American Women's Political Initiative,
8. Asian Americans Advancing Justice – Asian Law Caucus,
9. Asian Americans Advancing Justice – Atlanta,
10. Asian Law Alliance,
11. Asian Pacific American Bar Association of Tampa Bay,
12. Bailey, Andrew,
13. Bell, Daniel W.,
14. Boston University Center for Antiracist Research,
15. Butler, Steve,
16. Carr, Christopher M.,

17. Center for Civil Rights and Racial Justice at the University of Pittsburgh School of Law,
18. Center for Immigration Law, Policy and Justice at Rutgers Law School,
19. Center on Race, Inequality, and the Law at New York University School of Law,
20. Chang, Robert Seungchul,
21. Chin, Gabriel J.,
22. Chinese for Affirmative Action,
23. Clarke, Kristen,
24. Conference of Asian Pacific American Law Faculty,
25. Coody, Jason R.,
26. Costello, David M.,
27. Cuison-Villazor, Rose,
28. DeHeng Law Group, PC,
29. Fitch, Lynn,
30. Fitzgerald, Patricia,
31. Fitzpatrick, Martina A.,
32. Florida Office of the Attorney General,
33. Formella, John M.,
34. Forrester, Nathan A.,

35. Fred T. Korematsu Center for Law and Equality at Seattle University
School of Law,
36. Georgia, State of,
37. Gorski, Ashley Marie,
38. Griffin, Tim,
39. Handberg, Roger B.,
40. Harwell, Jr., Lacy R.,
41. Hispanic National Bar Association,
42. Idaho, State of,
43. Indiana, State of,
44. Jackley, Marty J.,
45. Jadwat, Omar,
46. Japanese American Citizens League,
47. Jarwala, Alisha,
48. Kelly, J. Alex,
49. Knudsen, Austin,
50. Koo, Elizabeth L.,
51. Labrador, Raúl R.,
52. LaPointe, Markenzy,
53. Larizza, R.J.,

54. Latino Justice PRLDEF,
55. Lee, Dexter,
56. Li, Bethany Yue-Ping,
57. Liu, Yongxin,
58. Longfield, Timothy J.,
59. Maurer, Michael S.,
60. Mahfooz, Sidra,
61. Mississippi, State of,
62. Missouri, State of,
63. Montana, State of,
64. Moody, Ashley,
65. Multi-Choice Realty, LLC,
66. National Asian Pacific American Bar Association,
67. New Hampshire, State of,
68. Nordby, Daniel E.,
69. North Dakota, State of,
70. Pagnucco, Carrie,
71. Quinn Emanuel Urquhart & Sullivan, LLP,
72. Reyes, Sean,
73. Rodriguez, Madeleine Kristine,

74. Rokita, Theodore E.,
75. Rundle, Katherine Fernandez,
76. Sayler, Erik Louis,
77. Schenck, Robert S.,
78. Shaffer, Derek Lawrence,
79. Shen, Yifan,
80. Shutts & Bowen, LLP,
81. Simpson, Wilton,
82. Song, Jian,
83. South Asian Bar Association of North America,
84. South Carolina, State of,
85. South Dakota, State of,
86. Taitz, Sarah Michelle,
87. Tang, Haiyan,
88. Tilley, Daniel Boaz,
89. Toomey, Patrick Christopher,
90. Turner, Joshua Nathaniel,
91. U.S. Department of Justice,
92. Utah, State of,
93. Wang, Xinxi,

94. Warren, Nicholas,
95. Whitaker, Henry C.,
96. Wilson, Alan,
97. Winsor, Honorable Allen C.,
98. Wofsy, Cody H.,
99. Wold, Theodore, J.,
100. Worrell, Monique,
101. Wrigley, Drew H.,
102. Xu, Zhiming,
103. Zafar, Noor,
104. Zaman, Razeen J.,
105. Zhu, Keliang

**DEFENDANTS' TIME-SENSITIVE MOTION TO
STRIKE PLAINTIFFS' MOTION FOR INJUNCTION
PENDING APPEAL**

Defendants move to strike Plaintiffs' motion for an injunction pending appeal (DE4-1), because it does not comply with the Court's rules and procedures. Specifically, the motion contains 6,246 words—approximately 1,000 more words than allowed by this Court's rules—and the Court has not ruled on Plaintiffs' separately pending motion for an expansion of that limit (DE3-1). *See* Fed. R. App. P. 27. That is no innocent procedural defect. Appended to Plaintiffs' motion for an expansion of the word limit is a copy of their proposed motion for an injunction pending appeal (DE3-2). Yet hours after lodging that document, Plaintiffs filed the motion for an injunction pending appeal anyway, without waiting for a ruling from this Court on whether they are entitled to do so, as required under this Court's rules and usual practices.

Defendants understand that this Court permits motions that exceed the word limit to be filed only after the Court rules on a motion for an expansion of the word limit and only allows expansion for extraordinary and compelling circumstances. *Cf.* 11th Cir. Rule 32-4 (establishing such a standard for an expansion of the word limit of a brief and requiring the motion to be filed at least 7 days in advance of the briefing deadline). That makes sense because, if allowed to stand, Plaintiffs' filing would prematurely begin the ten-day clock for Defendants to respond to Plaintiffs' motion for an injunction pending appeal. Defendants therefore move the Court to strike Plaintiffs' motion for injunction pending appeal (DE4-1) so that Defendants' response

time for that motion will properly begin to run only when the Court grants Plaintiffs' motion for an expanded word limit, or if leave is denied, when Plaintiffs file a motion that conforms to this Court's rules.

Dated: August 29, 2023

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Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

1. This document complies with Fed. R. App. P. 27(d)(2)(A) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), this document contains 303 words.

2. This document complies with the typeface and type-style requirements of Fed. R. App. P 27, Fed. R. App. P. 32(a)(5), and Fed. R. App. P. 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Garamond font.

/s/ Henry C. Whitaker
Solicitor General

CERTIFICATE OF SERVICE

I certify that on August 29, 2023, I electronically filed this document with the Clerk of Court using the Court's CM/ECF system, which will send a notice of docketing activity to all parties who are registered through CM/ECF.

/s/ Henry C. Whitaker
Solicitor General