

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

INTERNATIONAL DAIRY FOODS
ASSOCIATION,

Case No. 2:08-CV-628
consolidated with
2:08-CV-629

and

JUDGE GRAHAM
MAGISTRATE JUDGE KING

ORGANIC TRADE ASSOCIATION,

Plaintiffs,

v.

ROBERT J. BOGGS, Director,
Ohio Department of
Agriculture,

Defendant.

ORDER

Plaintiffs' motions for summary judgment filed on its claims under the First Amendment, Commerce Clause, Supremacy Clause, and on vagueness grounds are DENIED. (Doc. 21 in case 2:08-cv-628, Doc. 18 in case 2:08-cv-629). The Director's motion for summary judgment is GRANTED IN PART AND DENIED IN PART. (Doc. 36 in case 2:08-cv-628, Doc. 25 in case 2:08-cv-629). The Director's motion is granted in all respects except for the limited issue of whether the Ohio rule violates plaintiffs' First Amendment rights for those processors who use small containers. The court DENIES both plaintiffs' motions for preliminary injunction (Doc. 5 in case 2:08-cv-628, Doc. 5 in case 2:08-cv-629). A memorandum opinion will be filed in the near future.

It is so ORDERED.

s/ James L. Graham _____
JAMES L. GRAHAM
United States District Judge

DATE: March 30, 2009