



Supreme Court Sends Foie Gras Case Back to California Federal Trial Court

Challengers Intend to Ask Court to Maintain Status Quo as Case Moves Forward

Napa, CA, Jan. 7, 2019 — This morning, the Supreme Court denied the petition for certiorari filed last March by the farmers and restaurant group who are challenging California’s misguided ban on the sale of foie gras. The petition asked the high court to take up the question of whether the federal Poultry Products Inspection Act preempts (i.e., invalidates) California’s attempt to impose additional and different requirements on the ingredients in foie gras products.

The petition was supported by amicus briefs from 11 other States, from the government of France, from the U.S. Poultry & Egg Association, from a leading Canadian trade organization (CTAQ), and from influential think tanks Reason Foundation and the Cato Institute.

The Supreme Court denied the petition without any comment, as is its practice. While vegan extremists will likely mischaracterize the legal effect of it, the Justices themselves have long noted that their decision not to hear a case does *not* reflect on the merits. As Justice Frankfurter wrote in *Darr v. Burford*, 339 U.S. 200, 226 (1950), “The denial means that this Court has refused to take the case. It means nothing else.” (The high court receives over 8,000 petitions a year and grants only about 1% of them.)

The Supreme Court’s decision not to act on the petition means that the constitutional challenge now returns to the federal district court, i.e., the trial court, where it will again move forward in front of the same judge who, in 2015, granted summary judgment in favor of the farmers and restaurant group who launched the challenge.

The challengers to the California ban will present multiple grounds for declaring it unconstitutional and intend to ask the court to maintain the status quo — i.e., for sales of foie gras to remain legal in California — while the case proceeds to trial.

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