

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

MASSACHUSETTS LOBSTERMEN'S  
ASSOCIATION, INC.  
8 Otis Place  
Scituate, MA 02066

Plaintiff,

v.

GINA RAIMONDO, *in her official capacity*  
*as Secretary,*  
U.S. Department of Commerce  
1401 Constitution Avenue, NW  
Washington, DC 20230,

JANET COIT, *in her official capacity as*  
*Assistant Administrator,*  
NOAA Fisheries  
1315 East-West Highway  
Silver Spring, MD 20910,

NATIONAL MARINE FISHERIES  
SERVICE,  
1315 East-West Highway  
Silver Spring, MD 20910

Defendants.

Case No. 1:24-cv-10332

**MOTION FOR LEAVE TO FILE  
MEMORANDUM EXCEEDING  
LIMITATIONS OF LOCAL RULE  
7.1(b)(4)**

Pursuant to District of Massachusetts Local Rule 7.1(b)(4), Plaintiff Massachusetts Lobstermen's Association ("MLA") respectfully requests leave to file the attached Memorandum in Support of Motion for Temporary Restraining Order, Preliminary Injunction, and Administrative Stay [Docket No. 2.1] in excess of the 20-page limitation set forth in L.R. 7.1(b)(4).

MLA’s proposed memorandum is thirty-six (36) pages; the last two pages are a signature block and certificate of service.<sup>1</sup>

“Leave to file a fat brief ‘will be granted only upon a showing of diligence and substantial need.’” *U.S. v. Molina-Tarazon*, 285 F.3d 807, 808 (9th Cir. 2002). However, if allowing additional pages can help the court to resolve a complicated issue or complex questions of law, then leave to exceed page limits should generally be granted. *Facella v. Goguen*, No. 19-CV-40025-TSH, 2020 WL 13831997, at \*1 (D. Mass. Oct. 19, 2020) (granting leave to file 36-page memorandum).

This motion is brought on the ground that, despite diligence of counsel, MLA has a substantial need to exceed the page limitations in its memorandum in support of motion for preliminary injunction to fully establish the extensive administrative record, regulatory developments, Congressional interventions, and two key legal decisions in other districts and circuits that form the universe of facts for Plaintiff’s preliminary injunction. As explained in substantial depth in the memorandum in support of the motion for preliminary injunction, this litigation challenges a final agency rule that is an alleged finalization of an emergency rule, which was itself an alleged “extension” of a 2022 emergency rule.

Thus, it is necessary to explain each of the three regulations at issue here for this Court to understand why Plaintiffs assert the final rule is illegal. Further, the underlying science of the final rule was challenged in a D. C. Circuit case, wherein the D.C. Circuit ruled unanimously against NMFS. There is also a case from the District of D.C. that challenged the 2023 “extension” of the 2022 emergency rule that is necessary for this Court’s understanding. And, to add to the

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<sup>1</sup> The District Court for the District of Massachusetts has previously given leave for parties to file memorandum exceeding 20 pages. *See Engler v. C.R. Bard, Inc.*, No. 94-10602-RCL, 1997 WL 136249, at \*1 (D. Mass. Mar. 6, 1997) (giving leave to file a thirty-page memorandum).

complexity, Congress passed the Consolidated Appropriations Act, 2023 which directly addresses NMFS's action here, and as such its text and legislative history is crucial to this Court's consideration.

As the Court will see, the fact section alone is fourteen pages. This is not due to the inclusion of superfluous information, but instead represents a discerning and narrowed presentation of facts from what MLA could have presented. Further, as explained in the memorandum, District of Massachusetts courts require sufficient facts to issue a preliminary injunction. Additionally, the nature of the relief is a preliminary injunction against the federal government and thus MLA was required to provide substantial precedent to show this Court that it can grant the relief sought.

MLA has demonstrated diligence, substantial need, and good cause and thus this motion for leave to file a memorandum exceeding Local Rules 7.1(b)(4) should be granted.

Plaintiff Massachusetts Lobstermen's  
Association, Inc.

By its attorneys,

ECKLAND & BLANDO LLP

Dated: February 9, 2024

/s/SAMUEL P. BLATCHLEY  
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*\*Pro hac vice application pending*

**CERTIFICATE OF CONFERENCE LOCAL RULE 7**

Per Local Rule 7.1(a)(2), because this motion is being filed at the same time as the complaint initiating this matter, counsel for Massachusetts Lobstermen Association has not contacted counsel for Defendants regarding this Motion as no counsel has made an appearance yet.

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 9, 2024, I electronically filed the within document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

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