

UNITED STATES DEPARTMENT OF AGRICULTURE
 BEFORE THE SECRETARY OF AGRICULTURE

In re:) PACA-APP Docket No. 14-0166
) PACA-APP Docket No. 14-0168
 Jonathan Dyer, Drew Johnson,) PACA-APP Docket No. 14-0169
 and Michael S. Rawlings,)
)
)
 Petitioners)

Order Denying Petitioners' Motion for Reconsideration of Remand Order


On December 28, 2017, I remanded the instant proceeding to Administrative Law Judge Jill S. Clifton in order to put to rest any Appointments Clause claim that may arise in this proceeding. *Dyer* (Remand Order), __ Agric. Dec. __ (U.S.D.A. Dec. 28, 2017). On January 9, 2018, Jonathan Dyer, Drew Johnson, and Michael S. Rawlings [Petitioners] filed "Motion of Petitioners to Reconsider Remand Order." Petitioners contend further evidentiary proceedings, and the attendant expenses thereto, are not warranted and would be unfairly prejudicial to them. On January 30, 2018, Specialty Crops Program, Agricultural Marketing Service, United States Department of Agriculture [AMS], filed "Respondent's Reply to Motion of Petitioners to Reconsider Remand Order." AMS contends the December 28, 2017 Remand Order is directed to Administrative Law Judge Jill S. Clifton and imposes no duties or constraints on the parties. On January 31, 2018, the Hearing Clerk, Office of Administrative Law Judges, United States Department of Agriculture, transmitted the record to the Office of the Judicial Officer for a ruling on the Motion of Petitioners to Reconsider Remand Order.

In light of the Solicitor General's position in *Lucia v. SEC*, (No. 17-130), I find the December 28, 2017 Remand Order is warranted. Should Petitioners believe that any order

issued by Administrative Law Judge Clifton pursuant to the December 28, 2017 Remand Order is unfairly prejudicial to Petitioners, they may appeal Administrative Law Judge Clifton's order to the Judicial Officer pursuant to 7 C.F.R. § 1.145(a).

Done at Washington, DC

February 1, 2018


William G. Jenson
Judicial Officer