

**In re: JOHN F. CUNEO, JR., AN INDIVIDUAL; THE HAWTHORN CORPORATION, AN ILLINOIS CORPORATION; THOMAS M. THOMPSON, AN INDIVIDUAL; JAMES G. ZAJICEK, AN INDIVIDUAL; JOHN N. CAUDILL, III, AN INDIVIDUAL; JOHN N. CAUDILL, JR., AN INDIVIDUAL; WALKER BROTHER'S CIRCUS, INC., A FLORIDA CORPORATION; AND DAVID A. CREECH, AN INDIVIDUAL.**

**AWA Docket No. 03-0023.**

**Ruling Denying Complainant's Motion for Shortened Time for John F. Cuneo, Jr., and The Hawthorn Corporation to File a Response to Complainant's Appeal Petition, filed August 31, 2004.**

**Animal Welfare Act (AWA) – Appeal petition – Motion for shortened time to respond.**

Bernadette R. Juarez and Colleen A. Carroll, for Complainant.

Vincent J. Colatrisano, Derek L. Shaffer, and Michael Weitzner, Washington, DC, for Respondents.

*Ruling issued by William G. Jenson, Judicial Officer.*

On August 26, 2004, the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture [hereinafter Complainant], filed "Complainant's Appeal Petition" and "Complainant's Motion for Shortened Time for Respondents to File Response to Appeal Petition." On August 27, 2004, John F. Cuneo, Jr., and The Hawthorn Corporation [hereinafter Respondents] filed "Hawthorn Respondents' Opposition to Complainant's Motion for Shortened Time for Respondents to File Response to Appeal Petition."

Section 1.145(b) of the rules of practice applicable to this proceeding<sup>1</sup> provides that a party may respond to an appeal petition within 20 days after the Hearing Clerk serves the party with the appeal petition, as follows:

**§ 1.145 Appeal to Judicial Officer.**

....

(b) *Response to appeal petition.* Within 20 days after the service of a copy of an appeal petition and any brief in support thereof, filed by a party to the proceeding, any other party may file with the Hearing Clerk a response in support of or in opposition to the appeal and in such response any relevant issue, not presented in the appeal petition, may be raised.

7 C.F.R. § 1.145(b).

Complainant requests that I shorten Respondents' time for filing a response to Complainant's Appeal Petition from 20 days after the Hearing Clerk serves Respondents with Complainant's Appeal Petition to 3 days after the Hearing Clerk serves Respondents with Complainant's Appeal Petition (Complainant's Motion for Shortened Time for Respondents to File Response to Appeal Petition at 7). I carefully reviewed Complainant's Motion for Shortened Time for Respondents to File Response to Appeal Petition, and I do not find good reason to shorten Respondents' time for filing a response to Complainant's Appeal Petition.

For the foregoing reasons, the following Ruling should be issued.

**RULING**

Complainant's Motion for Shortened Time for Respondents to File Response to Appeal Petition, filed August 26, 2004, is denied.

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<sup>1</sup>The rules of practice applicable to this proceeding are the "Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes" (7 C.F.R. §§ 1.130-.151).