



Investor Relations | Smithfield Foods USA, Global Food Company

Smithfield Foods Extended Statement Regarding McKiver v. Murphy-Brown Verdict

SMITHFIELD, Virginia (April 27, 2018)—We are extremely disappointed by the verdict. We believe the outcome would have been different if the court had allowed the jury to (1) visit the plaintiffs' properties and the Kinlaw farm and (2) hear additional vital evidence, especially the results of our expert's odor-monitoring tests, as explained in detail below.

In addition, media reports of a \$50 million verdict are inaccurate and misleading. Punitive damages are limited to the greater of \$250,000, or three times the amount of compensatory damages, which in this case were \$75,000 per person. This means that each plaintiff should be awarded \$325,000, for a total judgment for all 10 plaintiffs of \$3,250,000.

These lawsuits are an outrageous attack on all animal agriculture (not only hogs, but poultry, cattle, etc.), rural North Carolina and thousands of independent family farmers who own and operate contract farms. Farmers are apparently not safe from attack even if they fully comply with all federal, state and local laws and regulations. The lawsuits are a serious threat to a major industry, to North Carolina's entire economy and to the jobs and livelihoods of tens of thousands of North Carolinians.

This case involved a farm that was not owned or operated by Smithfield. Neither the owner nor Smithfield ever received complaints – from these plaintiffs or anyone else – about odor, truck traffic, buzzards or anything else at Kinlaw farm. The farm in question has been in full compliance with its state permit and relevant laws and regulations governing swine operations in North Carolina and is regularly inspected by state environmental officials. Moreover, testimony at trial demonstrated that surrounding properties include new homes, including a multimillion dollar horse farm, which is the site of numerous horse shows, weddings and other outdoor activities.

From the beginning, the lawsuits have been nothing more than a money grab by a big litigation machine. Plaintiffs' original lawyers promised potential plaintiffs a big payday. Those lawyers were condemned by a North Carolina state court for unethical practices. Plaintiffs' counsel at trial relied heavily on anti-agriculture, anti-corporate rhetoric rather than the real facts in the case. These practices are abuses of our legal system, and we will continue to fight them.

Key Evidence Excluded by the Court

Below are several examples of key evidence excluded by the court. This list is not comprehensive but illustrates the fundamental unfairness of the court proceedings.

1. The jury was not allowed to visit the farm and see the situation first-hand.

We requested that the jury be able to view the sites of the alleged nuisance, including a visit to Plaintiffs' properties and the farm, but that request was denied. (Ex. 1, Case No. 7:14-cv-180, Doc. 179, Murphy-Brown Motion for Jury View; Ex. 2, Case No. 7:14-cv-180, Doc. 198, Order Denying Motion for Jury View.)

2. We were not allowed to present vital evidence on odor.

We were precluded from introducing objective measurements of odor based on odor testing conducted on the Kinlaw Farm and on land between the farm and Plaintiffs' properties through our expert Dr. Pam Dalton. (Ex. 3, Case No. 7:14-cv-180, Doc. 234 (Order Excluding Dr. Dalton's Odor Testing).) Yet, Plaintiffs' counsel was permitted to argue repeatedly that we had never conducted any testing at the farm. (See, e.g., Rough Trial Tr. 4/5/2018, 16:4-8, 187:17-19, 190:3-19; Trial Tr. 4/17/2018, 113:23-114:7, 140:16-17.) In contrast, Plaintiffs were allowed to offer expert testimony on odor nuisance from a putative expert, Dr. Shane Rogers, who, unlike Dr. Dalton, did not make any odor measurements. (Rough Trial Tr. 4/05/2018 pg. 75, 86-88.)

3. The jury was not allowed to hear evidence about the lawsuit itself.

We were precluded from mentioning Plaintiffs' past claims, including that Plaintiffs had previously sued the grower, but in closing statement Plaintiffs' counsel was permitted to argue repeatedly that Plaintiffs did not sue the grower because they "didn't think it was right" to sue Mr. Kinlaw. (Ex. 4, Trial Tr. 4/24/2018 pg. 126.) These

arguments misled the jury. Plaintiffs only dismissed their claims against Mr. Kinlaw to forum shop their case, a local property dispute that belongs in state court in the affected county, to federal court in Raleigh.

We were also precluded from mentioning Plaintiffs' dismissal of their injunctive relief claims (i.e. non-monetary claims demanding that Mr. Kinlaw make changes to his farm). (Ex. 5, Case No. 7:14-cv-180, Doc. 195 at pg. 2, Court Order re References to Dismissed Claims), but Plaintiffs' counsel was permitted to argue repeatedly to the jury that they were seeking "change" through the imposition of a large damages award (Ex. 4, Trial Tr. 4/24/2018 at pg. 126).

—Statement by Keira Lombardo, Senior Vice President of Corporate Affairs, Smithfield Foods, Inc.

About Smithfield Foods

Smithfield Foods is a \$15 billion global food company and the world's largest pork processor and hog producer. In the United States, the company is also the leader in numerous packaged meats categories with popular brands including Smithfield®, Eckrich®, Nathan's Famous®, Farmland®, Armour®, Farmer John®, Kretschmar®, John Morrell®, Cook's®, Gwaltney®, Carando®, Margherita®, Curly's®, Healthy Ones®, Morliny®, Krakus®, and Berlinki®. Smithfield Foods is committed to providing good food in a responsible way and maintains robust animal care, community involvement, employee safety, environmental and food safety and quality programs. For more information, visit www.SmithfieldFoods.com.

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