

**IN THE UNITED STATES DISTRICT COURT
FOR WESTERN DISTRICT OF MISSOURI**

RURAL COMMUNITY WORKERS ALLIANCE
and JANE DOE,

Plaintiffs,

v.

SMITHFIELD FOODS, INC. AND SMITHFIELD
FRESH MEATS CORP.,

Defendants.

Case No. 5:20-cv-06063-DGK

**PLAINTIFFS' SUGGESTIONS IN OPPOSITION TO DEFENDANTS'
SUPPLEMENTAL AUTHORITY**

Having strenuously argued that Plaintiffs' state law claims cannot be heard because the Occupational Safety and Health Administration ("OSHA") has "primary jurisdiction," Dkt. No. 15, Defendants now reverse course and claim that the United States Department of Agriculture ("USDA")—not OSHA—has primary jurisdiction, Dkt. No. 36. To state the obvious, if the agency with "expertise" changes day to day, there is no agency to which the Court should defer.

Moreover, the notion of deferring to USDA's "expertise" in this area is absurd. USDA has repeatedly stated that "workplace safety" is not "reasonably related" to the "food safety mission" of the Federal Meat Inspection Service, the subpart of USDA that has access to slaughterhouses and processing plants. *E.g.*, USDA Brief, *UFCW v. USDA*, No. 19-2660, Dkt. No. 16, at 29 (D. Minn.) (citing *Dawkins ex rel. Estate of Dawkins v. United States*, 226 F. Supp. 2d 750, 757 (M.D.N.C. 2002)). Defendants themselves acknowledge that with its new purported "primary jurisdiction," USDA will actually look to CDC and OSHA guidelines. Dkt. No. 36, at 2. All Defendants' supplemental authority demonstrates is that their claim of primary jurisdiction was always flimsy and is even more so now.

April 29, 2020

Respectfully Submitted,

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