

Judge Won't Dismiss 'Pink Slime' Defamation Suit Against ABC

ELK POINT, S.D. (AP) — A South Dakota judge on Thursday refused to throw out a defamation lawsuit against [ABC](#) [1] related to its coverage of a meat product called lean, finely textured beef, which critics have dubbed "pink slime."

[Beef Products Inc. sued the television network in 2012](#) [2] seeking \$1.2 billion in damages. Dakota Dunes-based BPI says ABC's coverage led to the closure of three plants and roughly 700 layoffs by misleading consumers into believing the product is unsafe.

Attorneys for ABC say the network in each of its broadcasts stated the U.S. Food and Drug Administration deemed the product safe to eat. They say BPI might not like the phrase "pink slime," but like all ground beef, it's pink and has a slimy texture.

In her Thursday ruling, Judge Cheryle Gering dismissed some claims but allowed most to go forward. Gering ruled that ABC isn't protected against liability by saying in its news reports that the product is beef, is safe and is nutritious.

Jeffrey W. Schneider, senior vice president of ABC News, noted that the ruling was on a preliminary motion to dismiss, not on the merits of the case. "We will defend our reporting vigorously on the merits," Schneider said in a written statement.

Beef Products Inc. attorney Erik Connolly said the company is pleased with the ruling.

"We look forward to starting discovery and ultimately presenting our case to a jury," Connolly said in a statement.

Lean, finely textured beef is made using a process in which trimmings left after a cow is butchered are heated, lean meat is separated from fat and ammonia gas is applied to kill bacteria.

Beef Products' attorneys argued during a December hearing that ABC's statements about the FDA deeming the product safe to eat were coupled with negative context calling the product filler or "not meat" and implying that the FDA was not a credible source because the agency overruled scientists in approving the food product's use.

They said the network intended to damage Beef Products' reputation and destroy its relationship with its customers, as BPI was the only producer mentioned in ABC's series of news reports.

Lawyers for the network said it never quoted critics saying the product is unsafe.

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They said the term "pink slime" is not incorrect and the company doesn't get to choose ABC's words.

ABC had wanted the case considered by the U.S. District Court in Sioux Falls, but federal Judge Karen Schreier in June ordered it back to the state circuit court in Elk Point.

In addition to ABC, the lawsuit names ABC news anchor Diane Sawyer; ABC correspondents Jim Avila and David Kerley; Gerald Zirnstein, the U.S. Department of Agriculture microbiologist who named the product "pink slime;" former federal food scientist Carl Custer; and Kit Foshee, a former BPI quality assurance manager who was interviewed by ABC.

An attorney representing Zirnstein and Custer did not immediately return messages for comment Thursday night. An attorney for Foshee said he has not had a chance yet to fully review the decision.

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Links:

[1] <https://twitter.com/ABC>

[2] <http://www.foodmanufacturing.com/news/2013/12/abc-asks-judge-toss-%E2%80%98pink-slime%E2%80%99-suit>