

DOYLE, BARLOW & MAZARD PLLC
ATTORNEYS AT LAW

1110 VERMONT AVE, N.W.
SUITE 715
WASHINGTON, D.C. 20005-3314

202-589-1834
FAX 202-589-1819
www.dbmlawgroup.com

PRESS RELEASE

FOR IMMEDIATE RELEASE

West Virginia Poultry Grower Proceeds to Trial Against Pilgrim's Pride

WASHINGTON, DC – October 13, 2017 - Doyle, Barlow and Mazard PLLC and Butler Farm & Ranch Law Group, PLLC represent M&M Poultry, Inc., a West Virginia poultry grower, in a lawsuit seeking compensation for Pilgrim's Pride's wrongful, intentional, malicious, and unlawful acts in violation of federal law under the Packers and Stockyards Act, as well as state common law under breach of contract, breach of the covenant of good faith and fair dealing, and tortious interference with contract claims.

On April 5, 2017, the Northern District of West Virginia ruled against Pilgrim's Pride's motion for summary judgment allowing the case to proceed to trial for its violations of the Sections 192(a) and (b) of the PSA. This court will set the standard for what is permissible and impermissible conduct. Judge Preston Bailey's ruling is a necessary step away from the historically cramped reading of the PSA that has contributed to ongoing anticompetitive practices in the poultry industry.

The PSA provides a regulatory framework for the relationships between farmers and packers or poultry integrators. It was enacted nearly a century ago to supplement U.S. antitrust laws because of the way meat packers at the time exploited farmers and consumers. Judge Bailey's rulings in this case have increased the ability of poultry, beef and hog farmers to sue regional livestock and poultry integrators like Pilgrim's Pride, Tyson Foods and Perdue Farms.

In his order, Judge Bailey reaffirmed his October 26, 2015 ruling that Sections 192(a) and (b) of the PSA which forbid discriminatory treatment do not require any showing of anticompetitive effect. Judge Bailey noted that his ruling is at odds with decisions by the Fifth and Sixth Circuits, which he said misread the PSA to require a showing of competitive harm.

Keith Lively, a partner at Doyle, Barlow & Mazard is ready to go to trial and is confident that Judge Bailey's PSA rulings will hold up on appeal, if necessary. The law in the Fifth and Sixth Circuits makes it nearly impossible for a single farmer effectively to use the PSA to bring claims against big national integrators like Pilgrim's Pride, Tyson and Perdue. However, the law in those courts is clearly wrong as it goes against Congress' intentions of passing the PSA in the first place.

Andre Barlow, an antitrust partner at Doyle Barlow & Mazard, further added that "the importance of Judge Bailey's decision cannot be overstated. Unfortunately, some other courts have mistakenly concluded that in order to prevail under the PSA, a farmer must demonstrate an anticompetitive effect. The PSA, however, is

not an antitrust statute that would require proof of anticompetitive harm. This is a huge victory not only for our client but for all farmers.” This case will proceed to trial, which is scheduled for November 14, 2017.

M&M Poultry’s case (C.A. No. 2:15-cv-32 Bailey) was filed in the United States District Court for the Northern District of West Virginia at Elkins. The case number is 2:15-cv-00032-JPB.

For more information, please contact Keith Lively at 202.589.1839 or klively@dbmlawgroup.com.

###