

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

RURAL COMMUNITY WORKERS ALLIANCE
and JANE DOE,

Plaintiffs,

vs.

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

Defendants.

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

**DEFENDANTS' SUPPORTING SUGGESTIONS IN SUPPORT OF
EMERGENCY MOTION TO DISMISS, OR IN THE ALTERNATIVE TO STAY,
BASED ON PRIMARY JURISDICTION AND/OR *BURFORD* ABSTENTION**

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I. PRELIMINARY STATEMENT

Plaintiffs Rural Community Workers Alliance (“RCWA”) and Jane Doe (“Plaintiffs”) initiated this action on April 23, 2020 seeking extraordinary relief in the form of a mandatory injunction. In support, they have offered allegations that grossly misrepresent the substantial safety measures that Smithfield has implemented at its Milan, Missouri Plant (the “Plant”). It is not surprising that not a single Smithfield employee was willing to apply their name to this baseless lawsuit. Plaintiffs’ request that this Court develop, monitor, and administer Smithfield’s occupational health and safety program at the Plant is unprecedented and improper.

In any event, the Court never needs to reach the merits of the Complaint or consider Plaintiffs’ overreaching request for injunctive relief. Rather, pursuant to the primary jurisdiction doctrine, the Court can—and should—dismiss or stay this suit in favor of the Occupational Health and Safety Administration’s (“OSHA”) regulatory authority over workplace safety issues and the Missouri Department of Health and Senior Services’ (“MDHSS”) jurisdiction over public health in Missouri. Even if the Court does not dismiss or stay the suit because OSHA has primary jurisdiction, there is an independent basis for dismissal under *Burford* abstention.

Indeed, OSHA is already in the process of exercising its jurisdiction at the Plant. On the day before Plaintiffs filed their Complaint in this case, OSHA sent Smithfield a “Rapid Response Investigation” requesting information regarding its COVID-19 work practices and infection at the Plant, giving Smithfield only seven days to respond. Smithfield is preparing its response for submission on April 29, and intends to cooperate fully with OSHA. The Court should defer to OSHA and its expertise to investigate and enforce any purported safety violations at the Plant. Indeed, on Sunday, April 26, 2020, OSHA and the Centers for Disease Control (“CDC”) joined together and issued specific COVID-19 guidance for meat processing plants.

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