

TABLE OF CONTENTS

	Page
INTRODUCTION AND STATEMENT OF ISSUES.....	1
BACKGROUND.....	4
A. The Complaint.....	4
B. Federal regulation of meat and poultry facilities	5
C. Designation of critical infrastructure.....	6
ARGUMENT.....	10
I. The complaint’s allegations of causation are far too conclusory and speculative under <i>Iqbal</i> and <i>Twombly</i>	10
II. The complaint takes no account of the broad, express preemption of the Poultry Products Inspection Act.....	17
A. The PPIA expressly preempts state-law requirements that differ from or add to the PPIA regulations	17
B. The PPIA regulates the control of “infectious disease” at poultry- processing facilities	18
C. Plaintiffs cannot impose state-law “requirements” that differ from or add to the PPIA’s regulations	19
III. The complaint takes no account of the federal designation of Tyson fa- cilities as critical infrastructure.....	22
CONCLUSION.....	25

TABLE OF AUTHORITIES

Page(s)

CASES

<i>Amalgamated Ass'n of St., Elec. Ry. & Motor Coach Emps. v. Lockridge</i> , 403 U.S. 274 (1971)	17, 23
<i>Ashcroft v. Iqbal</i> , 556 U.S. 662 (2009)	passim
<i>Bass v. Stryker Corp.</i> , 669 F.3d 501 (5th Cir. 2012)	3
<i>Bates v. Dow Agrosciences LLC</i> , 544 U.S. 431 (2005)	21
<i>Cary v. Hickenlooper</i> , 673 F. App'x 870 (10th Cir. 2016)	15
<i>Crosby v. Nat'l Foreign Trade Council</i> , 530 U.S. 363 (2000)	23, 24
<i>Dakota Cent. Tel. Co. v. State of S. Dakota ex rel. Payne</i> , 250 U.S. 163 (1919)	24
<i>Dames & Moore v. Regan</i> , 453 U.S. 654 (1981)	23
<i>Delaney v. Stryker Orthopaedics</i> , Civ. A. No. 08-03210 (DMC), 2009 WL 564243 (D.N.J. Mar. 5, 2009)	22
<i>Doe v. Boys Clubs of Greater Dallas, Inc.</i> , 907 S.W.2d 472 (Tex. 1995)	12
<i>E. Air Lines, Inc. v. McDonnell Douglas Corp.</i> , 532 F.2d 957 (5th Cir. 1976)	23
<i>Eclectic Props. E., LLC v. Marcus & Millichap Co.</i> , 751 F.3d 990 (9th Cir. 2014)	11
<i>Geier v. Am. Honda Motor Co.</i> , 529 U.S. 861 (2000)	21, 25

::

TABLE OF AUTHORITIES

(continued)

Page(s)

CASES (CONT.)

<i>Grocery Mfrs. of Am., Inc. v. Gerace</i> , 755 F.2d 993 (2d Cir. 1985).....	18
<i>Guidry v. Bank of LaPlace</i> , 954 F.2d 278 (5th Cir. 1992)	15
<i>Hillman v. Maretta</i> , 569 U.S. 483 (2013)	23
<i>Hines v. Davidowitz</i> , 312 U.S. 52, 67 (1941)	25
<i>Horowitz v. Stryker Corp.</i> , 613 F. Supp. 2d 271 (E.D.N.Y. 2009).....	3, 22
<i>In re Abbott</i> , 954 F.3d 772 (5th Cir. 2020)	12
<i>In re Great Lakes Dredge & Dock Co.</i> , 624 F.3d 201 (5th Cir. 2010)	10
<i>Lloyd v. Jones</i> , No. 9:18-CV-211, 2019 WL 4786874 (E.D. Tex. Sept. 10, 2019) (Giblin, J.).....	10
<i>N. Pac. Ry. Co. v. State of N. Dakota ex rel. Langer</i> , 250 U.S. 135 (1919)	23
<i>Nat'l Meat Ass'n v. Harris</i> , 565 U.S. 452 (2012)	18, 20, 21
<i>Osburn v. Anchor Labs., Inc.</i> , 825 F.2d 908 (5th Cir. 1987)	21
<i>Peterson v. Silverado Senior Living, Inc.</i> , 790 F. App'x 614 (5th Cir. 2019)	15

...

TABLE OF AUTHORITIES

(continued)

Page(s)

CASES (CONT.)

<i>Price v. Wallace</i> , Civ. A. No. 1:13cv677, 2016 WL 5339700 (E.D. Tex. Aug. 23, 2016) (Giblin, J.)	12
<i>Rancho Viejo, LLC v. Norton</i> , 323 F.3d 1062 (D.C. Cir. 2003).....	23
<i>Riegel v. Medtronic, Inc.</i> , 552 U.S. 312 (2008)	21
<i>Rincon v. Covidien</i> , No. 16-CV-10033 (JMF), 2017 WL 2242969 (S.D.N.Y. May 22, 2017).....	15
<i>San Diego Bldg. Trades Council, Millmen’s Union, Local 2020 v. Garmon</i> , 359 U.S. 236 (1959)	25
<i>Scott v. Pfizer, Inc.</i> 249 F.R.D. 248 (E.D. Tex. 2008)	20, 21
<i>Swindol v. Aurora Flight Scis. Corp.</i> , 805 F.3d 516 (5th Cir. 2015)	5
<i>Terrebonne v. Blackburn</i> , 646 F.2d 997 (5th Cir. 1981)	12
<i>Trout Point Lodge, Ltd. v. Handshoe</i> , 729 F.3d 481 (2013)	5
<i>United States v. Garcia</i> , 855 F.3d 615 (4th Cir. 2017)	5
<i>Valentine v. Collier</i> , 960 F.3d 707 (5th Cir. 2020)	12
<i>Waller v. Hanlon</i> , 922 F.3d 590 (5th Cir. 2019)	10, 12

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.