

their briefs which are either blatantly untrue or obvious mischaracterizations of the operating history of Valley Meat Company and administrative regulatory history associated with the plant. The fact that the salacious statements made by Plaintiffs and Plaintiff-Intervenors are improper and not supported by the facts has been repeatedly pointed out to counsel for Plaintiffs and Plaintiff-Intervenor at more than one hearing and appears in multiple places in the Court's record. Astoundingly, however, Plaintiffs and Plaintiff-Intervenors still insist on placing these types of untrue statements in their briefs which should be focused on the administrative record under the Court's order that the parties are to adhere to Olenhouse v. Commodity Credit Corp., 42 F.3d 1560, 1575 (10th Cir.1994) in their briefing, instead resorting to *ad hominen* attacks designed only to attempt to prejudice the Court and harm the reputation of Valley Meat Company.

This type of behavior should not be countenanced by the Court and the portions of their Amended Opening Briefs ECF Docs. 170 and 172 that include these types of untrue mischaracterizations should be struck from the record. The portions of ECF Docs. 170 and 172 containing these statements are as follows:

ECF Doc. 170:

1. Page 16, 2nd paragraph, 1st sentence;
2. Page 31, 2nd paragraph, Last line on the page;
3. Page 40 continuing on to Page 41, 2nd paragraph, 2nd and 3rd sentences
(including footnote.)

ECF Doc. 172:

1. Page 6, 3rd paragraph, 1st sentence (including footnote #5);
2. Page 7, 1st paragraph, 1st and 2nd sentences;

3. Page 24, 2nd paragraph, 2nd sentence;
4. Page 25, 1st paragraph, 2nd sentence;
5. Page 26, 2nd paragraph, 3rd sentence.

WHEREFORE, Defendant-Intervenors respectfully request that this Court order that those portions listed above in Plaintiffs' and Plaintiff-Intervenor's Amended Opening Briefs be struck and shall not be considered by the Court and for such other relief as the Court deems just and proper.

Dated: September 26, 2013

By: - Electronically Signed by – A. Blair Dunn
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CERTIFICATE OF SERVICE

I certify that I filed the foregoing documents on September 26, 2013 using the ECF System, which will send notification to all parties of record.

-Electronically Signed by – A. Blair Dunn
A. Blair Dunn, Esq.