

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FRONT RANGE EQUINE RESCUE,)	
<i>et al.</i> ,)	
)	
)	
Plaintiffs,)	
v.)	Civ. No. 1:13-cv-00639-MCA-RHS
)	
TOM VILSACK, Secretary,)	
U.S. Department of Agriculture, <i>et al.</i> ,)	
)	
)	
Federal Defendants.)	
)	
)	

**DEFENDANT-INTERVENORS’ REPLY TO PLAINTIFFS’ RESPONSE TO
MOTION TO STRIKE MISPRESENTATIONS FROM PLAINTIFFS’ AND
PLAINTIFF-INTERVERNOR’S AMENDED OPENING BRIEFS**

COMES NOW Defendant Intervenors, Rains National Meats, Chevaline LLC and Valley Meats (collectively “Defendant-Intervenors”) and hereby respectfully reply to the response of Plaintiffs’ to the Motion to Strike:

Plaintiffs have supplied a perfect example to the Court as to why those portions of Plaintiffs and Plaintiff-Intervenors should be struck from the record in their very response to the Court in this matter. In their Response Plaintiffs stated:

For obvious reasons, Valley Meat and the other Defendant-Intervenors joining in its Motion to Strike would like the Court to ignore Valley Meat’s well documented decades of violations of environmental laws.

A simple examination of this statement alone shows that Plaintiffs are intent on misrepresenting facts to the Court in what one can only assume is ham-fisted attempt to prejudice the Court. For instance, there is no evidentiary support for the allegation that this well document or that Valley has decades of violations of environmental laws. In fact, Plaintiffs are referring to two violations, Valley's failure to timely renew its discharge permit, a common problem associated with the common problem that the New Mexico Environment Department (NMENV) has a backlog of over 2 years of uncompleted renewals, and second, a failure to register a compost site which is a matter that was disputed by both parties in the administrative proceeding, with Valley pointing out that NMENV had lost the registration applications on multiple occasions and the matter was ultimately settled. Both these instances occurred in the last 5 years.

Absolutely nothing in the record, except the bald assertions of Plaintiffs, indicates decades of decades of environmental violations. These statements by Plaintiffs do not simply represent a characterization of facts that Defendant-Intervenors disagree with, they represent a knowing misrepresentation of facts to the Court. If Plaintiffs were to adhere to the duty of candor to the tribunal they could very easily have pointed out the two violations for which they insist on repeatedly misrepresenting to the Court as being something other than what they are administrative disputes. However, honesty and candor with the tribunal are clearly not the goals of Plaintiffs and Plaintiff-Intervenors in making these statement even in their Reply. Instead they insist on making these statements repeatedly for the improper purpose of harassing and harming a lawful business as if they are some sort evil miscreant deserving of defamation.

This knowing misrepresentation of facts falls precisely with the guidance of F.R.Civ.P. 11 (b) which requires that representations to the Court be accurate, not presented for improper purpose and supported by evidence. This Court should not countenance this type of misuse of the judicial system. Plaintiffs and Plaintiff-Intervenor should stick to the facts supported by the evidence and in this case by the administrative record. They should not use the privilege of supplying pleadings and motions to our judicial system as a free opportunity to defame a party, shielding conduct that would otherwise subject their clients to civil liability or to place permanently into the public records misrepresentations of fact that do harm to innocent persons. Defendant-Intervenors do not begrudge Plaintiffs and Plaintiff-Intervenor their opinions or their ability to express their opinions, in truth, everyone is entitled to their own opinion, however, everyone is not entitled to their own set of facts. This Court should require that Counsel be accurate in their representations of facts to the Court and should strike those portions of Plaintiffs' and Plaintiff-Intervenor's briefs which make statements to the Court that misrepresent facts.

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: October 7, 2013

By: - Electronically Signed by – A. Blair Dunn
A. Blair Dunn, (NM Bar #121395)
Attorneys for Proposed Intervenor -Real
Parties in Interest Chevaline, LLC and
Rains Natural Meats
6605 Uptown Blvd, NE Ste 280
Albuquerque, NM 87110
505-881-5155
F: 505-881-5356

CERTIFICATE OF SERVICE

I certify that I filed the foregoing documents on October 7, 2013 using the ECF System, which will send notification to all parties of record.

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