

South Dakota Supreme Court Denies Dismissal of Winston & Strawn Client Beef Products Inc. Lawsuit

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The South Dakota Supreme Court has denied American Broadcasting Cos. Inc.'s (ABC) attempt to dismiss a \$1.2-billion lawsuit filed in [September 2012](#), clearing the way for the trial court to consider the claims made by Winston & Strawn client Beef Products Inc. (BPI). The suit accuses ABC and others of making nearly 200 false and disparaging statements about BPI and its product, lean finely textured beef, which ABC falsely described as "pink slime."

The Supreme Court's order, which has been covered by numerous media outlets including *The Associated Press*, *Reuters*, and [Law360](#), leaves in place the trial court's March 28 order upholding the suit and lifts an April stay on discovery. ABC's petition argued that the Supreme Court should have allowed an intermediate appeal to decide if the Agricultural Food Products Disparagement Act preempts all of BPI's common law disparagement claims. The trial court found the Act only preempts common law disparagement claims related to product safety.

BPI is seeking actual and consequential damages of more than \$400 million, as well as punitive and statutory damages, including treble damages. The case is *Beef Products Inc. et al. v. American Broadcasting Cos. Inc. et al.*

BPI is represented by Chicago partner Dan Webb.

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