

## **ABC News Sued for Defamation over 'Pink Slime'**



NORTH SIOUX CITY, S.D. (AP) — Beef Products Inc. sued ABC News, Inc. for defamation Thursday over its coverage of a meat product that critics dub "pink slime," claiming the network damaged the company by misleading consumers into believing it is unhealthy and unsafe.

The Dakota Dunes, S.D.-based meat processor is seeking \$1.2 billion in damages for roughly 200 "false and misleading and defamatory" statements about the product

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officially known as lean, finely textured beef, said Dan Webb, BPI's Chicago-based attorney.

The lawsuit filed in a South Dakota state court also names several individuals as defendants, including ABC news anchor Diane Sawyer and the Department of Agriculture microbiologist who coined the term "pink slime."

The company's reporting "caused consumers to believe that our lean beef is not beef at all — that it's an unhealthy pink slime, unsafe for public consumption, and that somehow it got hidden in the meat," Webb said before the company's official announcement.

ABC News, owned by The Walt Disney Co., denied BPI's claims.

"The lawsuit is without merit," Jeffrey W. Schneider, the news station's senior vice president, said in a brief statement Thursday. "We will contest it vigorously."



The 257-page lawsuit names American Broadcasting Companies, Inc., ABC News, Inc., Sawyer and ABC correspondents Jim Avila and David Kerley as defendants. It also names Gerald Zirnstein, the USDA microbiologist who named the product "pink slime," Carl Custer, a former federal food scientist, and Kit Foshee, a former BPI quality assurance manager who was interviewed by ABC.

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Richard McIntire, a spokesman for the USDA's Food Safety and Inspection Service, declined to comment and attempts to reach Foshee were unsuccessful.

The Food Integrity Campaign, a whistleblower advocacy group that has worked with Foshee, said in a statement Thursday that Foshee was fired from BPI because he refused to participate in the company's "misrepresentation of the product's safety to the USDA and to consumers."

"Thanks to ABC News, Kit Foshee and other whistleblowers shared their concerns about BPI," said Amanda Hitt, the group's director and former counsel to Foshee after he was fired. "Doing so took enormous courage for which they should be honored, not attacked. We believe that this product is questionable."

Zirnstien said that he had not yet been served with the lawsuit.

"I'm just a scientist giving my opinion. I'm not going to deal with this nonsense," he said, referring questions to his attorney.

Although several news organizations used the term "pink slime," Webb said ABC was being sued for attacking the company "night after night." The "defendants engaged in a monthlong vicious, concerted disinformation campaign against BPI," the lawsuit claims, citing 11 TV and 14 online reports from March 7 to April 3.

Craig Letch, BPI's director of food-quality assurance, said the company lost 80 percent of its business in 28 days. BPI has declined to discuss how much it lost in sales, but acknowledged it took a "substantial" hit. Some of the customers have returned, Letch said, but not enough to allow BPI to rehire former employees.

Webb said the reports had a "catastrophic" impact on the company, forcing it to close three of its four U.S. plants and lay off 700 workers.

ABC published a list of major grocery stores that stopped selling the product, pressuring others to follow suit by placing them on a "black list," he said.

BPI will have to prove the network intended to cause harm for the defamation lawsuit to succeed, said Patrick Garry, a media law expert at the University of South Dakota School of Law.

"The media — regardless of your opinion of them — don't usually print something that they know to be false," Garry said. "It may be negligent, but usually there's a malice requirement as well."

Bill Marler, a Seattle attorney who said he's representing Zirnstien and Custer, said his clients were considering a counter-claim against BPI.

"Our view is that the lawsuit against them, especially as public employees doing their job for food inspection, is completely bogus, without merit and frivolous," Marler said.

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Critics worry about how the meat is processed. Bits of beef are heated and treated with a small amount of ammonia to kill bacteria, a practice that has been used for decades and meets federal food safety standards. Webb said that ABC ignored that information, instead giving the impression "that it's some type of chemical product ... some kind of repulsive, horrible, vile substance that got put into ground beef and hidden from consumers."

The name "pink slime" gained traction after The New York Times quoted Zirnstein in a 2009 article on the safety of meat processing methods. In the following years, celebrity chef Jamie Oliver began railing against it. McDonald's Corp. and other fast food companies stopped using the product, and major supermarket chains vowed to stop selling beef containing the low-cost product. An online petition calling for it to be banned from school menus, attracting hundreds of thousands of supporters.

The U.S. Department of Agriculture has said the vast majority of states participating in its National School Lunch Program have opted to order ground beef that doesn't contain the product. Only three — Iowa, Nebraska and South Dakota — chose to order beef that may contain it.

The uproar prompted Beef Products to suspend operations at plants in Amarillo, Texas; Garden City, Kan.; and Waterloo, Iowa. Beef Products' plants in Iowa and Kansas each produced about 350,000 pounds of lean, finely textured beef per day, while the one in Texas produced about 200,000 pounds a day.

The company has won support from the governors of Iowa, Nebraska, Kansas, Texas and South Dakota. U.S. Agriculture Secretary Tom Vilsack has also defended the product, saying the federal government wouldn't allow the product if it was unsafe.

The company has launched its own public relations offensive, including a website — [www.beefisbeef.com](http://www.beefisbeef.com) [1] — to advocate for the product.

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*Schulte reported from Lincoln, Neb. Associated Press writer Candice Choi in New York contributed to this report.*

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[1] <http://www.beefisbeef.com/>