

What's Going on in 2022 and Outlook for 2023

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DEPARTMENT OF AGRICULTURAL AND
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INTRODUCTION

Introduction

Legal outlook will spend time discussing Ron Swanson's favorite foods



POULTRY CLASS ACTIONS



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FEARLESS IDEAS

Poultry Class Actions

- These have taken two forms in 2022:
 - Settlements involving alleged violations of the Packers and Stockyards Act
 - Claims by former growers that growers are not independent contractors but employees of integrators

BROILER SETTLEMENT (KOCH)

Broiler Settlement (Koch)

- Originally filed in 2017 with claims that integrators colluded in the broiler market
- This alleged collusion violates PSA



Broiler Settlement (Koch)

- Claims that integrators:
 - Agreed not to poach growers
 - Used data available through AgriStats to lower grower compensation
- Claims are that AgriStats is anonymous data but so detailed you can identify growers.

Broiler Settlement (Koch)

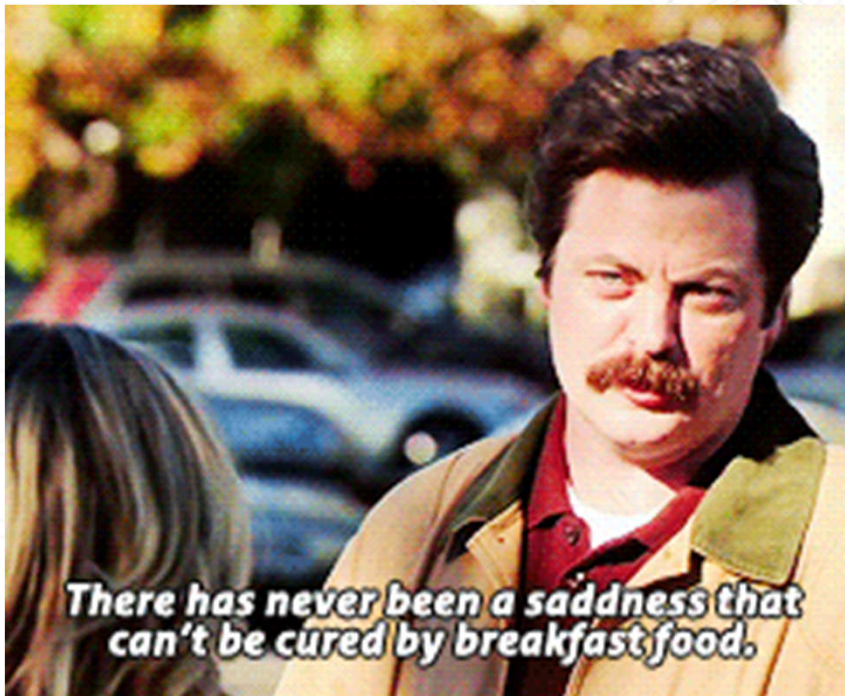
Suit was brought against Koch Poultry, Pilgrim's Pride, Sanderson Farms, Tysons, and Perdue

Currently only Koch has settled

Broiler Settlement (Koch)

Several co-conspirators included, Agri Stats, Foster Farms, Mountaire Farms, Wayne Farms, George's, Inc., Peco Foods, Inc., House of Raeford Farms, Simmons Foods, Keystone Foods, Fieldale Farms Corp., O.K. Industries, Case Foods, Marshall Durbin Companies, Amick Farms, Inc., Mar-Jac Poultry, Inc., Harrison Poultry, Inc., and Claxton Poultry Farms

Broiler Settlement (Koch)



- Dates to be aware of:
 - Sept. 23, 2022, request exclusion from the settlement
 - Oct. 28, 2022, fairness hearing
 - Feb. 6, 2022, claims forms must be submitted

FAIR LABOR STANDARDS ACT LITIGATION



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FEARLESS IDEAS

Fair Labor Standards Act Litigation

- 2022 has seen two proposed class actions filed in South Carolina and Georgia by former broiler growers.
- Both claim that integrators violated the Fair Labor Standards Act (FSLA).

Fair Labor Standards Act Litigation



Claims are that growers are employees not independent contractors

Fair Labor Standards Act Litigation

If they are employees, then not been paid minimum wage for work or overtime

Claiming tournament system does not pay at the current minimum wage



Fair Labor Standards Act Litigation

- One lawsuit claims that integrators violated Employee Retirement Income Security Act.
- ERISA requires employers to offer similar benefits to all employees. Claim is growers not offered the same benefits as other employees.

Fair Labor Standards Act Litigation

- These cases need to be certified as class actions, potentially consolidated, and a district court decided on. This could happen in 2023
- Some case law may back up growers' alleged issues.

OTHER POULTRY ISSUES

USDA Changes to Tournament System



- USDA announced proposed changes to the tournament system
- Comments closed earlier this month

USDA Changes to Tournament System

- Proposed changes would have required companies to provide additional info to growers.
- If USDA moves forward, expect . . .

USDA Changes to Tournament System

- Lots and lots of litigation and attorneys making money
- That never upsets anyone, right?



PROP 12

Prop 12

- Passed by voters in CA in 2018, portion covering pork and eggs went into effect this year.
- Prop 12 limits the use of gestation crates and battery cages by growers.

Prop 12

- Majority of pork and eggs sold in CA are produced in other states
- Claims by the pork industry and several ag groups that Prop 12 violates dormant commerce clause of US Constitution

Prop 12

- The Commerce clause gives the federal government the right to regulate trade among states.
- The dormant commerce clause typically means states can't set rules that discriminate against interstate trade.

Prop 12

- Federal courts have not agreed with the claims so far.
- US Supreme Court agreed to hear the case during the 2022-23 term



Prop 12



- Justice Department has sided with ag groups.
- May not hear decision on this case until June 2023

LAST BITS

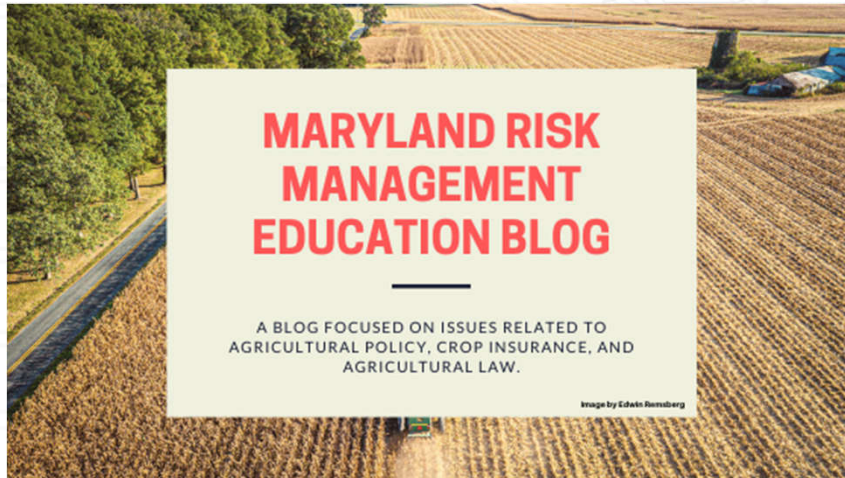
Last Bits

Eighth Circuit vacated the \$60 million punitive damages award related to dicamba drift on a MO peach farm

Last Bits

- Supreme Court will not hear appeal by Bayer in glyphosate cases that federal decisions that glyphosate is safe to use controlled state law.
- Iowa Supreme Court reversed course on how it interpreted its Right-to-Farm law.

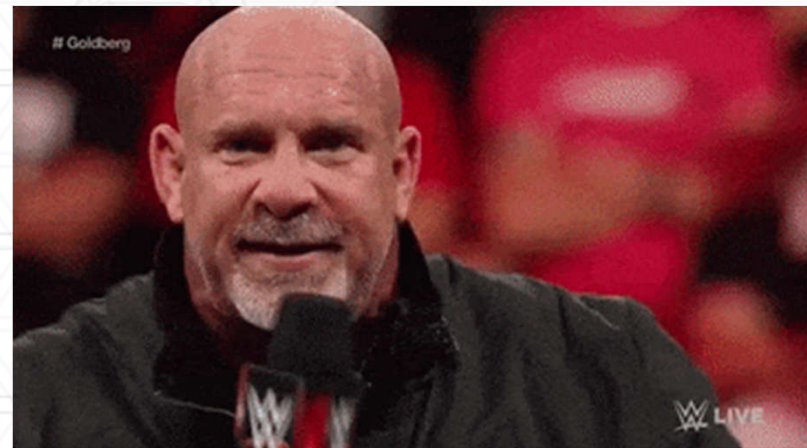
Md. Risk Management Blog



- Department of Ag and Resource Econ's blog updated periodically with timely legal, crop insurance, farm policy, and water conservation information.
- www.agrisk.umd.edu
- Signup to get posts delivered to you
- My podcast is also available there.

Any Questions??

Thank you!



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