

No. 08-1461

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

Sanderson Farms, Inc. and Perdue Farms, Inc.,

Appellees,

v.

Tyson Foods, Inc.,

Appellant.

JOINT MOTION TO DISMISS THE APPEAL

Pursuant to Federal Rule of Appellate Procedure 42(b),

Appellant Tyson Foods, Inc. and Appellees Sanderson Farms, Inc. and Perdue Farms, Inc. respectfully submit this joint motion to dismiss the appeal in this action.

Pursuant to a settlement agreement entered between Appellant Tyson Foods, Inc. and Appellees Sanderson Farms, Inc. and Perdue Farms, Inc., the parties have agreed to dismiss the underlying action pending in the United States District Court for the District of Maryland (No. 1:08-cv-00210-RDB). The parties likewise have agreed

to dismiss this appeal of the District Court's order granting plaintiffs-appellees' motion for preliminary injunction.

Pursuant to Federal Rule of Appellate Procedure 42(a), the parties agree that each shall bear its own costs, fees and attorneys' fees associated with this appeal.

CONCLUSION

For these reasons, the parties respectfully request that the Court grant their joint motion to dismiss the appeal.

June 20, 2008

Respectfully submitted,

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/s/ Carter G. Phillips

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* (signed by Eamon P. Joyce with
permission of Randall K. Miller)

Counsel for Tyson Foods, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on June 20, 2008, I caused a copy of the Joint Motion to Dismiss the Appeal to be served on: counsel for appellees, Randall K. Miller at Arnold & Porter LLP, 1600 Tysons Boulevard, Suite 900, McLean, VA 22101, and Nicholas M. DePalma at Arnold & Porter LLP, 555 12th Street, NW, Washington, DC 20004, by way of electronic mail, and through this Court's CM/ECF system.

June 20, 2008

/s/ Eamon P. Joyce

Eamon P. Joyce