

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 RANDY BUCHANAN and DONNA
8 BUCHANAN, individuals,

9 Plaintiffs,

10 v.

11 SIMPLOT FEEDERS, LLC, an Idaho
12 limited liability company; and
13 TYSON FRESH MEATS, INC., a
14 Delaware corporation,

15 Defendants.

NO. 4:19-CV-5209-TOR

ORDER MODIFYING ORDER ON
MOTION FOR SUMMARY
JUDGMENT

16 BEFORE THE COURT are Defendant Tyson Fresh Meat, Inc.'s ("Tyson")
17 Motion for Entry of Judgment (ECF No. 147) and Plaintiffs' Memorandum in
18 Opposition (ECF No. 156). These matters were submitted for consideration
19 without oral argument. The Court has reviewed the record and files herein and is
20 fully informed. For the reasons outlined in Plaintiffs' memorandum the Motion for
Entry of Judgment (ECF No. 147) is **denied**.

1 Because Tyson only sought partial summary judgment on the issue of noise
2 and flies, not on dust and odors, the Court reinstates Tyson as a Defendant in this
3 case.

4 Currently pending is a Motion for Summary Judgment by Simplot Feeders.
5 ECF No. 141. Pursuant to the Third Amended Scheduling Order, a Jury Trial is
6 currently scheduled for December 5, 2022, in Spokane. The Court is vacating the
7 trial pending the disposition of the pending motion(s) for summary judgment.

8 Because the remaining claims against Tyson overlap the claims against Simplot,
9 the Court will allow Tyson to file a motion for summary judgment within the next
10 8 days.

11 **ACCORDINGLY, IT IS SO ORDERED.**

- 12 1. The Clerk of Court is ordered to reinstate Defendant Tyson Fresh Meat,
13 Inc.'s as a Defendant in this matter.
- 14 2. Defendant Tyson Fresh Meat, Inc.'s Motion for Entry of Judgment, ECF
15 No. 147, is **DENIED**.
- 16 3. Defendant Tyson Fresh Meat, Inc.'s may file a motion for summary
17 judgment by **November 25, 2022**. Response to said motion is due no
18 later than **December 9, 2022**. The optional Reply is due by **December**
19 **16, 2022**.

1 4. The Jury Trial is currently scheduled for December 5, 2022, in Spokane,
2 is **VACATED** until further order of the Court.

3 The District Court Executive is directed to enter this Order and furnish
4 copies to counsel.

5 DATED November 17, 2022.



9
10
11
12
13
14
15
16
17
18
19
20

Thomas O. Rice
THOMAS O. RICE
United States District Judge