

**In the United States District Court
Western District of Missouri**

RURAL COMMUNITY WORKER’S ALLIANCE
and JANE DOE,

Plaintiffs,

v.

SMITHFIELD FOODS, INC. and SMITHFIELD
FRESH MEATS CORP.,

Defendants.

Declaration of Axel Fuentes

I, Axel Fuentes, hereby declare as follows:

1. I am the Executive Director of the Rural Community Worker’s Alliance (“RCWA”) based in Milan, Missouri.
2. I have held this position for 4 years and before that I was a community organizer of agricultural and other workers in Milan and Northern Missouri.
3. RCWA is a nonprofit corporation organized under the laws of Missouri for the purposes of assisting and protecting workers in Northern Missouri.
4. RCWA is a membership organization whose members consist exclusively of workers in Northern Missouri, including numerous members who work within Smithfield’s Milan, Missouri slaughterhouse. Seven members of RCWA’s current leadership council work at the Smithfield plant and between 60 and 70 workers who attend its meetings work at that plant. Hundreds of Smithfield slaughterhouse workers have used RCWA’s services over the years I have worked for the organization.

5. RCWA's members nominate representatives to serve on the organization's Health Action Council, which in turn sets the direction and activities of the organization.

6. I am the only staff member of RCWA, which has an extremely limited operating budget.

7. RCWA's member workers continue to perform their essential job functions at the Milan Smithfield slaughterhouse, but they are fearful for their own health and safety and the health and safety of their families and community due to the risk of contracting COVID-19 created by Smithfield's working environment.

8. On April 2, 2020, 70 workers, including RCWA members, recognized this risk and sent a letter to the plant's human resources office requesting greater protections. A copy of that letter is attached to this declaration as Exhibit A. It details among other facts:

- a. Workers had not been provided masks;
- b. There was no plan in place for social distancing, with workers standing shoulder-to-shoulder on the processing lines, and in the hallways, particularly when the company wants them to clock out;
- c. The processing line was run at such a high speed workers could not stop to cover their mouth when they sneeze or cough without missing a piece of meat (and there a penalties for doing such);
- d. Even if workers were able to move their hands to cover their faces, no tissues were provided in the work areas;
- e. Smithfield was actively discouraging sick-leave by informing workers they will not be paid for COVID-19-related leave and, in fact, will receive

a “point” if they take such leave—a worker is penalized up to and including being fired if they receive more than 9 points; and

- f. Smithfield was actively encouraging ill workers to come to the plant by offering a \$500 bonus for workers who do not call in sick between April 1 and May 1.

9. Even as other Smithfield slaughterhouses become “hot spots” for the spread of COVID-19, Smithfield’s Milan plant has failed to address nearly all of these concerns. *See, e.g.,* Caitlin Dickerson & Miriam Jordan, *South Dakota Plant is Now Country’s Biggest Coronavirus Hot Spot*, N.Y. Times (Apr. 15, 2020).¹ Attached as Exhibit B are copies of photos from inside the plant sent to me by RCWA’s worker members documenting some of the concerns described below.

10. I have been in regular phone contact with our worker members since they sent their letter. I speak to at least 8 to 10 Smithfield workers each day regarding their experience in the plant and have talked to approximately 80 different workers since the pandemic began. My summary below is based on the information RCWA’s worker members have provided me in these phone calls.

11. It was not until April 16, 2020 that *any* of the workers at the Milan plant reported receiving masks. Even then those masks were only distributed to workers who divide the carcasses (the “cut floor”). As of April 16, 2020, workers who strip the animal down to a carcass (on the “kill floor”) still were sent to work without masks. *See* Madison McVan, *Milan meat processing plant begins handing out masks to workers*, *Missourian*

¹ <https://www.nytimes.com/2020/04/15/us/coronavirus-south-dakota-meat-plant-refugees.html>.

(Apr. 16, 2020)² (including statement from Smithfield that it had not *begun* to provide masks until April 16). It was not until April 17, 2020 that workers on the kill floor were provided masks.

12. At least one worker has informed me that Smithfield said it will only provide them *one* mask per a week. It will only replace the mask during the week if it breaks. Although, that worker did receive a new mask later in the week. I have been informed that workers on cleaning crew—which is run by the an independent company, but allowed access to all the areas of the plant, including work stations, locker rooms and the cafeteria—are still allowed inside the plant without masks.

13. On both the kill and cut floors workers remain shoulder-to-shoulder.

14. Meat moves through the plant from the point of slaughter on a conveyer belt along which workers are stationed. Each worker is assigned a particular task to dismember the animal. The animal then is transferred to another side of the plant where workers similarly stand side-by-side to break down the animal into pieces for shipment. Finally, the animal is transferred to a packing area. Our work members on the kill and cut floors have long described the risk of cuts from their neighbors' knives because they are so close together. Even our worker members who work in packaging describe little space to move and that they regularly bump into one another.

15. Smithfield has made no effort to alter any of these conditions. While Smithfield has posted signs saying to avoid close contact with people who are sick, on the

² https://www.columbiainmissourian.com/news/covid19/milan-meat-processing-plant-begins-handing-out-masks-to-workers/article_4c726226-8024-11ea-bf91-2fe813a4e6bb.html.

lines and in the packing areas workers are currently, regularly forced to stand less than six-feet apart.

16. Smithfield has installed “Plexiglas dividers” between workers on some of the lines, but our member workers report that even then Smithfield failed to take into account workers’ varying heights, so the Plexiglas does not cover all workers’ faces.

17. Further still, rather than slowing the line as the workers requested so they could wipe spittle from their faces, our worker members report that since the closing of its other plants Smithfield has increased the line speed. Smithfield continues to say that missing even one piece of meat to clean one’s face could result in punitive employment action.

18. On the lines, workers are still not provided tissues or other materials to wipe away fluids that might come out during coughing or sneezing. Although Smithfield has erected some hand cleaning stations, it has not provided workers any additional break time to wash their hands. At least one worker informs me, Smithfield has sent people with hand sanitizer to the lines, but they will only sanitize workers’ gloves, not their hands.

19. Shifts now last up to eleven hours a day and workers are provided only three breaks throughout the day, two 15 minute breaks and one 30 minute break, at the end of which they must be back on the line, providing little time to take care of a host of personal needs, including washing their hands.

20. Moreover, off the line, the workers remain crowded. Our worker members describe that Smithfield has made no effort to control the flow of the workers through the

hallways. In fact, workers are still crowded into the hallway to “clock in” and “clock out” so that Smithfield can keep their hourly wages as low as possible.

21. Smithfield has started taking workers’ temperatures before they enter but it allows a close line to form while workers wait to be checked.

22. While Smithfield did expand the cafeteria and hang signs recommending distancing, there is still not enough space for workers to sit six-feet apart. Moreover, Smithfield installed Plexiglas down the center of the tables, but has provided no protection for workers sitting side-by-side.

23. Smithfield also continues to discourage workers from taking sick-leave. At least some workers report that Smithfield will continue to assign “points” if they miss a shift due to COVID-19 symptoms unless a doctor or Smithfield orders them to stay home. In other words, it is these workers’ understanding that if they stay home on their own volition to avoid contact with others or because they cannot obtain an appointment they will not be paid for their missed shifts and will receive one of the 9 points they are allowed before they can be fired.

24. Further still, Smithfield is actively encouraging sick workers to come into the slaughterhouse. It continues to offer a \$500 bonus for any worker who does not miss any shifts between April 1 and May 1. Similar to sick leave, some workers report that if a worker is expressly quarantined for COVID-19 Smithfield has agreed to pay the bonus even if the worker misses shifts, but if the worker stays home without a diagnosis of COVID-19 in order to not risk infecting others, Smithfield will not pay the bonus.

25. Smithfield has not offered to provide workers tests or even aid them in obtaining COVID-19 testing. As far as I am aware, Smithfield also has not contacted any

workers to inform them that they have interacted with workers displaying COVID-19 symptoms, although I know workers have stayed home due to COVID-19 symptoms.

26. RCWA's worker members cannot afford to lose their jobs, and \$500 represents a significant amount of money for them. Milan does not offer many employment opportunities other than the plant. Smithfield is the largest employer in the area. Many of the workers have families, including children they need to support, and many are currently living paycheck-to-paycheck.

27. Nonetheless, out of concern for harming others, two RCWA members who work at the Smithfield plant have stayed home because they displayed COVID-19-related symptoms, including coughing and a sore throat.

28. Beyond its impact on our worker members, Smithfield's refusal to properly address COVID-19 has had a detrimental effect on RCWA and me personally.

29. Prior to COVID-19, RCWA was especially focused on: (i) advocating for greater protections from repetitive stress injuries that are rampant at the Smithfield plant, (ii) advocating for increased opportunities for bathroom breaks, as employees have had to wear diapers on the line; and (iii) organizing gatherings and cultural events for the workers. RCWA's work had included educating workers on their rights, helping them obtain legal and medical support to aid treatment for the musculoskeletal problems and kidney disorders that are common at the Smithfield plant—including transporting the workers to those appointments—and developing contacts to help workers with those concerns.

30. Since COVID-19, at the direction of its worker members, RCWA has focused almost entirely on the immediate threat to health and safety due to COVID-19,

particularly the lack of personal protective equipment, paid sick leave and overcrowding. These were not issues that RCWA focused on in the past.

31. I, as the lone staff person, have had to spend significant time and resources learning about these issues that I would have put towards aiding workers with the other concerns.

32. Because COVID-19 exposure at the plant also places families and the community at risk, RCWA has also been working on ways to protect people once workers leave the plant. This has included research on my part and hosting virtual meetings about these issues, such as instructing workers about how to decontaminate at home. Again, these were not concerns that RCWA addressed previously.

33. I would estimate that 90% of my time has been spent addressing COVID-19-related concerns, and I would have been able to put that time towards helping workers with workers compensation claims and medical treatment for repetitive stress and related issues, were it not for Smithfield's failure to protect workers from COVID-19.

34. Moreover, because I live in Kirksville, near Milan, I fear for the health and safety of my family due to Smithfield's negligence. Many plant workers live in Kirksville and it has one of the only grocery stores in the area, which is frequented by people from the plant. The plant employs more than 1,000 workers who are brought together each day in violation of the CDC guidelines. While I and my family make reasonable efforts to follow those guidelines, we need to interact with the world, including walking outside and buying groceries.


35. I also fear for the health and safety of me and my family because my job with RCWA brings me into close contact with workers from the plant, who Smithfield is

failing to protect. It is part of my job to continue to support RCWA's worker members, including workers at the plant. For instance, I helped draft the letter attached as Exhibit A. In order to show the risks to workers I helped gather signatures for this letter, which brought me into contact with workers for Smithfield. Providing this type of support to workers is core to my functions as Executive Director of RCWA. I could not fully carry out my duties without being in contact with workers, including Smithfield slaughterhouse workers, in ways like this.

36. I believe I and my family are at heightened risk for contracting COVID-19 due to the points of transmission Smithfield has created in the slaughterhouse. I could not afford the extended medical treatment that would result if a member of my family were to contract COVID-19, and my inability to work would also harm RCWA's worker members placing the community at greater risk.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Kirksville, MO

DocuSigned by:

Axel Fuentes

4/22/2020

Dated

Exhibit A

To: Smithfield foods, Milan, Mo.

From: Milan's, Mo. Plant workers

Re: Covid 19 concerns

Date: 03/29/2020

Representatives of Smithfield Foods,

We, the workers at the plant in Milan Missouri,

Want to express that we are very concerned about our health exposure by continuing to work at the plant, while the entire Country and World is in quarantine, because of the Covid-19 or Coronavirus pandemic. As workers, we are working in confine space and our health is not being taken into consideration. We feel that not enough measures are being taken to prevent the spread of the virus; such as advised by the Center for Disease Control or CDC. For example;

- In our work areas there is no minimum physical distance of 6 feet between workers.
- Due to the high quantity of meat pieces being processed per minute or high speed of the line, and lack of replacement of absent workers, there is no time to clean or cover the nose or mouth when someone sneezes or coughs, there are not tissues or napkins available in the work areas.
- There is not protective gear available, such as masks or respirators.
- Workers who are experiencing symptoms such as a coughing, sneezing, or even fever, they have not been allowed to go home or take a day off without being assigned negative points.
- In the cafeteria, at shorts and lunch breaks we are all confined and sitting on benches in where there is physical contact between people, even though you have decided to place tables and benches in the hallway, it is still not enough for the appropriate distance to prevent contagion.
- There are times when in the hallways at the entrance and exit areas are crowded with workers specially at the clocking in and out times, again violating the recommended distance between individuals

We are aware of the emergency that the country and the entire world facing and the need to produce and process food to feed families. We consider the working conditions we are in, our health and our lives run in a very high risk. Therefore we are requesting the following:

- Consider the decision to start quarantine. Or
- Consider that attendance at work is voluntary and not mandatory until the state and local government deem it safe so resume normal operation.

- Increase the hourly payment rate due to the high risk and danger to which we are exposed.
- Completely eliminate penalties or negative points for workers who have to be absent from work for health reasons during these times.
- Smithfield assumes the financial responsibility for medical expenses or compensation for the consequences of the illness or death in the event that a worker is infected with virus.
- Implement a paid sick day's policy for as long as the person remains ill.
- Minimum physical distance between workers of at least 6 feet in the work lines as it has been recommended by health professionals.
- Reduce the number of pieces of meat processed per minute or speed of the work line.
- Make available tissues and disposal containers at the work line.
- Provide protective gear; such as mask or respirators, to meet the necessary rules to contain the virus, since we are now working totally unprotected.

The above requests are only to protect our health and our safety. As workers we also want to protect the safety of the food and consumers, the company should also for any liabilities because as much as we are exposed the meat is as well.

We appreciate your attention to these matters and hope to have positive responses to our requests and concerns.

Sincerely,

Workers at the Milan, Mo plant.

Signatures on next pages

Exhibit B

Héroes vienen en muchas formas.

#ThankAFoodWorker



En Smithfield, aceptamos la Responsabilidad en todo lo que hacemos. Y premiamos a quienes aceptan la Responsabilidad.

Como muestra de nuestra gratitud, recibirá un **Bono de Responsabilidad de \$500 pagado el 15 de mayo, 2020.**

A los miembros de nuestro equipo que son cruciales en la respuesta de nuestra nación al COVID-19,

GRACIAS!

NOTA: Para calificar para el Bono de Responsabilidad, debe trabajar todas la horas programadas y no recibir ningún punto de asistencia entre 4/1/20 – 5/1/20.

Smithfield Food Trust. Community.

Smithfield

Good food. Responsibly.®

**How Smithfield
is Protecting You from
COVID-19 (Coronavirus)**



**INSTALLED
PLEXIGLASS BARRIERS**

Smithfield

Good Food. Responsibility.

PLEASE TAKE STEPS TO PROTECT YOURSELF AND OTHERS FROM COVID-19 AT HOME!

Clean your hands often



Avoid close contact



Cover your mouth and nose with a cloth face cover when around others



Cover coughs and sneezes



Clean and disinfect



Clean your hands often

- Wash your hands often with soap and water for at least 20 seconds especially after you have been in a public place, or after blowing your nose, coughing, or sneezing.
- If soap and water are not readily available, use a hand sanitizer that contains at least 60% alcohol. Cover all surfaces of your hands and rub them together until they feel dry.
- Avoid touching your eyes, nose, and mouth with unwashed hands.

Avoid close contact

- Avoid close contact with people who are sick.
- Stay home as much as possible.
- Put distance between yourself and other people.
- Remember that some people without symptoms may be able to spread virus.
- Keeping distance from others is especially important for people who are at higher risk of getting very sick.

Cover your mouth and nose with a cloth face cover when around others

- You could spread COVID-19 to others even if you do not feel sick.
- Everyone should wear a cloth face cover when they have to go out in public, for example to the grocery store or to pick up other necessities.
- Cloth face coverings should not be placed on young children under age 2, anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the mask without assistance.
- The cloth face cover is meant to protect other people in case you are infected.
- Do NOT use a facemask meant for a healthcare worker.
- Continue to keep about 6 feet between yourself and others. The cloth face cover is not a substitute for social distancing.

Cover coughs and sneezes

- When coughing or sneezing and do not have on your cloth face covering, remember to always cover your mouth and nose with a tissue, your elbow or sleeve or use the inside of your elbow.
- Throw used tissues in the trash.
- Wash your hands with soap and water for at least 20 seconds. If soap and water are