



U.S. Department of Justice

Antitrust Division

*Liberty Place Building
325 Seventh Street NW
Washington, DC 20530*

May 22, 2003

VIA FACSIMILE

Thomas G. Slater, Jr.
Hunton & Williams
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219-4074

Re: United States v. Smithfield Foods, Inc.

Dear Mr. Slater:

This is in response to your two letters of May 22, 2003, setting forth your initial concerns regarding the discovery served with an effective date of May 19, 2003. Even though you indicated that, after you have had an opportunity to consult with your clients, you may need to address other issues or objections, we would like to clarify a few points.

First, at no point has the Department of Justice alleged that the only Smithfield subsidiaries amenable to personal jurisdiction in the District of Columbia are Gwaltney of Smithfield, Ltd. ("Gwaltney") and Smithfield Packing Company, Inc. ("Packing"). Our position has been that at least those two entities have been transacting business in the District. Accordingly, our discovery requests seek information about any other Smithfield subsidiaries transacting business in the District. As we advised in our telephone conversation on May 20, 2003, we have reason to believe that The Smithfield Companies ("Smithfield Companies") and certain of its subsidiaries transact business in the District. It should be noted that, at no time, have you represented to the court or to us that Gwaltney and Packing are the only two subsidiaries or business units of the defendant transacting business in the District of Columbia.

Second, your assertion that you will produce documents and respond to interrogatories for the time period January 1, 1997 through January 31, 2001, rather than through the present, as our discovery calls for, seems inconsistent with the court's order of May 12, 2003, which allowed the submission of Plaintiff's Supplemental Memorandum. The subjects addressed in that Supplemental Memorandum (and attached thereto) were a transcript of a 1997 deposition of Joseph Luter and the June 2001 and July 2002 Annual Reports of Packers filed on behalf of

Gwaltney and Packing with the United States Department of Agriculture. Despite your arguments that the evidence was not relevant because of its dates, the court allowed it into the record.

Third, we believe your reliance on Local Civil Rule 26.2 as a basis for suggesting that the usual limits on the number of depositions and interrogatories do not apply, is misplaced. By an amending Order entered on May 17, 2001, the District Court appears to have abolished the tracking system and the standing order establishing presumptive limits on the numbers of interrogatories and depositions. *See* Comment to L.Civ.R 16.4(a) and the revised L.Civ.R. 26.2 (b), Order of the U.S. District Court for the District of Columbia, May 17, 2001.

Finally, given the breadth and number of factors to be considered by the court under District of Columbia law relating to personal jurisdiction, our request to depose six Smithfield executives and the presidents of two Smithfield subsidiaries does not seem unreasonable. We anticipate that several of the depositions should not be very time consuming.

We will await further discussion with you, after your client consultation, regarding other issues and the appropriate manner in which to bring any unresolved disputes before the court.

Sincerely,

“/s/”

Nina B. Hale
Attorney