

**IN THE UNITED STATES DISTRICT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
ABERDEEN DIVISION**

**JAMES E. KING, SR., ET AL**

**PLAINTIFFS**

**VERSUS**

**NO. 1:14-CV-00088-MPM-DAS**

**PECO FOODS, INC.**

**DEFENDANT**

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**PRETRIAL ORDER**

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- 1. Choose [by a ✓ mark] one of the following paragraphs, as is appropriate to the action:**

*[✓] If a pretrial conference was held*

A pretrial conference was held as follows:

Date: January 19, 2017 Time: 10:30 a.m.

United States Courthouse at:

Aberdeen, Mississippi,

before the following judicial officer:

Judge David A. Sanders.

- 2. The following counsel appeared:**

**a. For the Plaintiffs:**

Richard H. Middleton, Jr. (pro hac vice)

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**b. For the Defendant:**

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3. **The pleadings are amended to conform to this pretrial order.**
4. **The following claims (including claims stated in the complaint, counterclaims, crossclaims, third-party claims, etc.) have been filed:**
  - Nuisance
  - Negligence
  - Punitive Damages
5. **The basis for this court's jurisdiction is:**

Diversity jurisdiction, 28 U.S.C. Section 1332
6. **The following jurisdictional question(s) remain(s):**

None

**7. The following motions remain pending:**

None

**8. The parties accept the following concise summaries of the ultimate facts as claimed by:**

**a. Plaintiffs:**

Plaintiffs Amanda Boggan, Mandolyn Boyd, Christine DeVauld, Claude DeVauld, Stella Dobson, Caron Ewing, Ira Fields, Robbie Fields, James Lenoir, Pamela McAlister, Lillie Page, Larry Porter, Charity Scott, Henry Tumblin, Myrtice Tumblin, and Chasity Young are all residents of the Egypt community of Monroe County, Mississippi. Each of these Plaintiffs possessed or occupied by their properties before the chicken facilities at issue in this lawsuit were constructed.

Beginning in early 2008, Martha Cole and her son-in-law, Noland Skeels sought permits from the Mississippi Department of Environmental Quality to construct confined poultry operations in Monroe County, Mississippi.

After learning of the plans to construct these confined poultry operations to grow broiler chickens for Peco Foods, Inc., a group of concerned citizens in the area known as “Monroe County Concerned Citizens” wrote a letter to Mark Hickman, CEO of Peco Foods on July 28, 2008, explaining their concerns with the proposed poultry operations in their area. By October 28, 2009, Peco Foods knew that there were two hundred people that had concerns about these facilities.

In spite of being aware of the opposition from citizens in the Egypt community, Peco Foods issued Letters of Intent to contract with both Cole’s Poultry, LLC and Skeels Poultry, LLC on December 22, 2009. Several months later, after the chicken facilities had been constructed according to Peco Foods’ specifications and met with Peco Foods’ approval, Peco Foods executed Broiler Grower Contracts with Cole’s and Skeels in August and September 2010, respectively. Shortly thereafter, Peco Foods delivered its first batch of chickens to be grown at these facilities. Plaintiffs became inundated with nuisance conditions from these facilities that impacted their use and enjoyment of their properties. Specifically, Plaintiffs experienced recurrent and offensive odors at their properties, excessive fly populations, and, some Plaintiffs experienced excessive dust and noise from semi-truck traffic servicing these chicken facilities on Tumblin Road.

Plaintiffs claim that Defendant Peco Foods, Inc. maintained control over all aspects of Cole’s and Skeels’ confined chicken facilities, which were located in close proximity to Plaintiffs’ homes and properties in Monroe County, Mississippi. Plaintiffs claim in this action

that Defendant Peco Foods is liable to Plaintiffs for creating and maintaining a private nuisance that has interfered with Plaintiffs' ability to use and enjoy their properties.

Plaintiffs also claim that Peco Foods should have reasonably anticipated that Plaintiffs would be damaged by these confined chicken facilities and owed a duty to Plaintiffs to refrain from causing them foreseeable harm. Plaintiffs allege that Peco Foods breached its duty to Plaintiffs, and was negligent, by constructing and operating the chicken facilities located in close proximity to Plaintiffs' properties, or causing those facilities to be constructed and operated, that have caused foreseeable damages to Plaintiffs' use and enjoyment of their properties.

In addition to their compensatory and special damages, Plaintiffs seek punitive damages from Peco Foods.

**b. Defendant:**

Peco Foods was founded by Herman Hickman in Gordo, Alabama in 1937. Peco is wholly owned by the Hickman family and has its headquarters in Tuscaloosa, Alabama. Peco has chicken processing, distribution, and related operations in Alabama, Mississippi and Arkansas.

Martha Cole has lived and farmed in the Egypt community for most of her adult life. In 2008, Mrs. Cole purchased about 100 acres of existing farmland along Tumblin Road in the Egypt Community. Mrs. Cole was interested in building a chicken farm on this property to provide a business opportunity for her daughter, Terri Skeels, a former Christian missionary, her son-in-law, Noland Skeels, and their two young children to return home to Mississippi after living and working in the state of Washington.

Millions of pounds of chicken are consumed in the United States every day. In order to meet the demands for chicken products in the United States, chickens are now primarily raised in commercial chicken houses. The commercial chicken industry is the largest agricultural industry in Mississippi, with more than 10,000 commercial chicken houses currently operating in the state. Peco contracts with family farmers, like Martha Cole and Noland Skeels, who are licensed to operate chicken farms. Peco supplies chicks to the farmers, who utilize their own land, facilities, equipment, and labor to raise them to an appropriate age and weight for processing.

The Egypt community – where the Plaintiffs reside and the Cole's and Skeels' chicken farms operate – has always been an agricultural community. It is located about 13 miles from Aberdeen Mississippi. Row crop farming, catfish farming, and livestock, including a commercial hog farm, can all be found in the Egypt community.

Plaintiffs claim that odors, flies and trucks emanating from the chicken houses have caused them damage. Noland Skeels, Teri Skeels, and their two children live in the Egypt community approximately one mile southwest of the farms. They homeschool their nine year old son and eight year old daughter at this home, and are very active outdoors on their property. Further, Noland Skeels works on the chicken farm on a daily basis, and Teri also regularly works

on the farm. While they are at home or working on the farm, the Skeels do not experience the odors and flies complained of by the plaintiffs. Further they have consistently witnessed plaintiffs and other local residents enjoying outdoor activities on or near their respective properties, such as walking, grilling, hosting parties, and working in their yards since the farm opened.

The Mississippi Department of Environmental Quality (“MDEQ”) is the state regulatory agency responsible for protecting our environment, including the air that we breathe. MDEQ has developed stringent standards that farmers must meet before they open a chicken farm. Only after it determines the farmer has met the stringent criteria does MDEQ issue a license to operate -- otherwise known as a permit. One of the MDEQ’s stringent requirements is a minimum buffer zone of 600 feet between the chicken farm and the nearest residential neighbor. The nearest residential neighbor to the Cole’s and Skeels farms lives over 1700 feet, or approximately three times the buffer zone, away from the farms. Multiple plaintiffs reside more than two miles away. The average distances the Plaintiffs live in proximity to the Cole’s and Skeels’ chicken farms is about one mile.

In 2008, Martha Cole and Noland Skeels contacted Peco to express interest in contracting with it to “grow” chickens. Cole doing business as Cole’s Poultry, LLC and Skeels doing business as Skeels Poultry, LLC both applied to MDEQ for licenses to operate their farms. As part of the MDEQ licensing or permitting process, citizens are given notice and an opportunity to voice opposition to the application. Petitions and letters were submitted to MDEQ in opposition to the Cole’s and Skeels permits. MDEQ held a public hearing following the written opposition and only two citizens appeared to voice any opposition. MDEQ, over the two citizens’ objections, determined that Cole’s and Skeels had met its stringent criteria and issued them permits.

After they received permits from MDEQ, Peco contracted with Cole’s and Skeels to grow chickens for Peco in August and September 2010, respectively. Peco’s experience through contracting with hundreds of family farmers in Mississippi is that MDEQ’s stringent standards are very protective of local residents. Prior to this lawsuit, Peco had never received a complaint from any of its neighbors about one of its growers concerning trucks, odors or flies. Therefore, while Peco carefully considered the concerns expressed in opposition to the Cole’s and Skeels farms, it decided to proceed with the contractual relationship based on the fact that Cole’s and Skeels had more than satisfied the MDEQ’s requirements for building and operating chicken houses.

After receiving their license to operate from the MDEQ and contracting with Peco, Cole’s and Skeels invested more than \$3 million in constructing twelve state of the art chicken houses. Next to the houses Cole’s and Skeels constructed two MDEQ approved dry stack waste storage facilities. The Cole’s and Skeels facilities are newer and more technologically advanced than the vast majority of the more than 10,000 other chicken houses in operation in Mississippi.

Even after issuing the license to operate, MDEQ continues its oversight of chicken farms to ensure compliance with all laws and regulations. MDEQ has never cited Cole’s or Skeels for a

violation of any law or MDEQ regulation since they began their operations. Further, Peco inspects the Cole's and Skeels farms on at least a weekly basis to monitor the health of its chickens, and has found that Cole's and Skeels management of their farms consistently exceeds Peco's and the chicken industry's standards.

The Plaintiffs filed their lawsuit on July 20, 2011, approximately eleven months after operations began on the Cole's and Skeels farms. Although Plaintiffs and others voiced concerns before construction and permitting of the houses, Plaintiffs never voiced any complaints or concerns to Peco about how the houses were constructed or how Cole's and Skeels were operating them. Plaintiffs made no attempt to describe to Peco what they perceived to be unacceptable conditions that existed around the farms after Cole's and Skeels began their operations. The first time Peco learned of the Plaintiffs' complaints about operation of the farms was when the Plaintiffs filed this lawsuit. In their request for relief, the Plaintiffs do **not** seek to shut down the farms or improve their operations in any way – they only seek monetary damages.

**9. a. The following facts are established by the pleadings, by stipulation, or by admission:**

1. Peco Foods entered into a broiler grower contract with Cole's on August 17, 2010.
2. Peco Foods entered into a broiler grower contract with Skeels which was executed on September 20, 2010.
3. Peco Foods delivered the first flock of broiler chickens to Cole's on August 17, 2010.
4. Peco Foods delivered the first flock of broiler chickens to Skeels on September 9, 2010.
5. Plaintiffs filed their Complaint in this matter on July 20, 2011.

**b. The contested issues of fact are as follows:**

1. With respect to each individual Plaintiff, between August 17, 2010 and July 20, 2011, did the Cole's Poultry operations on Tumblin Road intentionally and unreasonably cause odors to invade the Plaintiff's interest in the private use and enjoyment of his/her property?
2. With respect to each individual Plaintiff, between August 17, 2010 and July 20, 2011, did the Skeels Poultry operations on Tumblin Road intentionally and unreasonably cause odors to invade the Plaintiff's interest in the private use and enjoyment of his/her property?

3. With respect to each Plaintiff's property, did Cole's Poultry negligently operate its broiler chicken farm between August 17, 2010 and July 20, 2011, and was its negligence a proximate cause of an unreasonable interference with the Plaintiff's use and enjoyment of his/her property?
4. With respect to each Plaintiff's property, did Skeels Poultry negligently operate its broiler chicken farm between August 17, 2010 and July 20, 2011, and was its negligence a proximate cause of an unreasonable interference with the Plaintiff's use and enjoyment of his/her property?
5. If the Cole's Poultry operations created a nuisance on the property of any Plaintiff during the relevant time period, could the nuisance have been abated by reasonable measures and without unreasonable expense?
6. If the Skeels Poultry operations created a nuisance on the property of any Plaintiff during the relevant time period, could the nuisance have been abated by reasonable measures and without unreasonable expense?
7. Did Peco Foods have the right to cancel its contract with Cole's Poultry between August 17, 2010 and July 20, 2011?
8. Did Peco Foods have the right to cancel its contract with Skeels Poultry between August 17, 2010 and July 20, 2011?
9. If the Cole's Poultry farm was causing a nuisance on any Plaintiffs' properties between August 17, 2010 and July 20, 2011, did Peco Foods have knowledge of it?
10. If the Skeels Poultry farm was causing a nuisance on any Plaintiffs' properties between August 17, 2010 and July 20, 2011, did Peco Foods have knowledge of it?
11. If Peco Foods had a right to cancel its contract with Cole's Poultry between August 17, 2010 and July 20, 2011, and had knowledge that Cole's Poultry was causing a nuisance on any Plaintiffs' property during this same time period, did Peco Foods unreasonably fail to exercise its right to cancel its contract with Cole's Poultry?
12. If Peco Foods had a right to cancel its contract with Skeels Poultry between August 17, 2010 and July 20, 2011, and had knowledge that Skeels Poultry was causing a nuisance on any Plaintiffs' property during this same time period, did Peco Foods unreasonably fail to exercise its right to cancel its contract with Skeels Poultry?

13. If Peco Foods negligently failed to cancel its contract with Cole's Poultry during the relevant time period, did its negligence proximately cause or contribute to a nuisance on each Plaintiffs' property?
14. If Peco Foods negligently failed to cancel its contract with Skeels Poultry during the relevant time period, did its negligence proximately cause or contribute to a nuisance on each Plaintiffs' property?
15. Would a reasonable and prudent person have contracted with Cole's Poultry in 2010 for the development of broiler chicken farms on Tumblin Road under the same or similar circumstances?
16. Would a reasonable and prudent person have contracted with Skeels Poultry in 2010 for the development of broiler chicken farms on Tumblin Road under the same or similar circumstances?
17. If Peco Foods was negligent in its decision to contract with Cole's Poultry in 2010, did its negligence proximately cause an unreasonable invasion of Plaintiff's private use and enjoyment of his/her property?
18. If Peco Foods was negligent in its decision to contract with Skeels Poultry in 2010, did its negligence proximately cause an unreasonable invasion of Plaintiff's private use and enjoyment of his/her property?
19. If Peco Foods was negligent in its decision to contract with Cole's Poultry in 2010, was Peco Foods' negligence the proximate cause of damages to Plaintiff?
20. If Peco Foods was negligent in its decision to contract with Skeels Poultry in 2010, was Peco Foods' negligence the proximate cause of damages to Plaintiff?
21. Was Cole's Poultry an agent of Peco Foods during the relevant time for all purposes relevant to this case, or was it an independent contractor?
22. Was Skeels Poultry an agent of Peco Foods during the relevant time for all purposes relevant to this case, or was it an independent contractor?
23. With respect to each Plaintiff who establishes negligence or nuisance for which Peco Foods is potentially liable, whether and to what extent the negligence and/or nuisance proximately caused the Plaintiff to experience annoyance, discomfort, and/or inconvenience in the use and enjoyment of his/her property.



24. With respect to each Plaintiff, the amount of damages to which the Plaintiff is entitled for annoyance, discomfort, and/or inconvenience experienced on his/her property between August 17, 2010 and July 20, 2011.
25. Whether the confined chicken operations at issue in this litigation created a private nuisance to each individual Plaintiff that impaired Plaintiffs' use and enjoyment of their properties.
26. Was it reasonable for Peco Foods to construct these barns at the locations chosen?
27. Was it reasonable for Peco Foods to build these barns after knowing about public opposition to the same?
28. Was it reasonable for Peco Foods not to change the way the barns were managed after being aware of Plaintiffs' complaints?
29. Was it reasonable for Peco Foods to impair Plaintiffs' use and enjoyment of property?
30. Was it reasonable for Peco Foods to interfere with Plaintiffs' use and enjoyment of property when Plaintiffs lived at their respective properties before Peco Foods constructed these facilities?
31. The grower is responsible for selecting the sites for its chicken houses and its waste facilities.
32. The grower is responsible for applying for and obtaining a Poultry CAFO Permit prior to doing business with Peco.
33. The grower is responsible for obtaining approval from MBAH for any waste storage areas where it will dispose of mortalities before doing business with Peco.
34. The grower is responsible for the construction of its chicken houses and waste storage/disposal facilities.
35. The grower is responsible for selecting the type of waste disposal/storage method it will utilize for chicken litter and mortalities within the methods approved by the MDEQ and MBAH.
36. The grower is responsible for developing and/or selecting design specifications for the growers' waste storage/disposal area.

37. The grower is responsible for securing financing, for the construction of facilities and the purchase of equipment.
38. The grower bears all risks associated with damage to the grower's property, facilities, and equipment.
39. The grower is responsible for administering all feed, water, and medicines needed by the broiler chickens on a daily basis.
40. The grower is responsible for providing all power, heat, and ventilation needed for the chicken houses.
41. The grower is responsible for compliance with the Poultry CAFO Permit issued by MDEQ.
42. The grower is responsible for managing, removing, and storing chicken litter generated by its operations.
43. The grower is responsible for removing and disposing of mortalities generated by its operations.
44. The grower is responsible for hiring, firing, supervising, and compensating all labor the grower chooses to utilize for its operations.
45. The nearest occupied dwelling is more than 1700 feet away from the south end of the Cole's and Skeels' chicken houses.
46. None of the Plaintiffs ever voiced any complaints to Cole's or Peco Foods concerning Cole's operations on Tumblin Road between August 17, 2010, when the first flock of broiler chickens was delivered to Cole's and July 20, 2011 when the Plaintiffs filed their Complaint.
47. None of the Plaintiffs ever voiced any complaints to Skeels or Peco Foods concerning Skeels operations on Tumblin Road between September 9, 2010, when the first flock of broiler chickens was delivered to Skeels and July 20, 2011 when the Plaintiffs filed their Complaint.
48. Noland Skeels and his family have lived in the Egypt community throughout the relevant time period.
49. Dr. Robert Hall ("Dr. Hall"), who is a professor of entomology at the University of Missouri, inspected the Cole's and Skeels' farms on behalf of Plaintiffs on January 25, 2016, and did not observe any flies.

50. Dr. Hall conducted a second inspection of the Cole's and Skeels' farms on May 10, 2016, and again, did not observe any flies.
51. Between May 6 and May 9, 2016, Dr. Hall supervised scientific testing on in the Egypt community, which consisted of placing "sticky fly tapes" at the front and back doors of 39 residences. Dr. Hall only collected a total of eight (8) house flies and no bottle flies through this scientific testing.
52. Peco is a vertically integrated poultry processing and packing company, with processing plants and other facilities located in Alabama, Mississippi, and Arkansas.
53. Peco sells and ships its poultry products to customers throughout the United States and internationally.
54. The type of chickens utilized by Peco for processing are commonly referred to as "broiler chickens."
55. As part of its process, Peco contracts with individual farmers in Alabama, Mississippi, and Arkansas to "grow" one-day old chicks into market size broiler chickens suitable for processing. The farmers are commonly referred to as "growers."
56. The Mississippi Department of Environmental Quality ("MDEQ") is responsible for regulating the poultry industry in Mississippi. As part of the regulatory process, anyone who desires to operate a broiler chicken farm must apply for and obtain a Dry Litter Poultry Concentrated Animal Feeding Operating ("CAFO") permit (hereinafter referred to as a "Poultry CAFO Permit").
57. Any waste storage facilities used on a broiler chicken farm to dispose of mortalities must be inspected and approved by the Mississippi Board of Animal Health ("MBAH").
58. In order to obtain a Poultry CAFO Permit from MDEQ, there must be a minimum buffer zone of 600 feet between the nearest occupied dwelling, which is unowned by the grower, and the broiler chicken operations.
59. In order to obtain a Poultry CAFO Permit from MDEQ, there must be a minimum buffer zone of at least 150 feet between any land application fields that would be utilized by the grower for the application of chicken litter and the nearest occupied dwelling, which is not owned by the grower.

60. In order to obtain a Poultry CAFO Permit, the grower must develop a Nutrient Management Plan with the National Resource Conservation Service ("NRCS"), which is a division of the United States Department of Agriculture.
61. A Nutrient Management Plan sets forth the plan for the storage of chicken litter and compost waste generated by the broiler chicken operations, and outlines potential land application fields for chicken litter and compost on the grower's property.
62. The MBAH has two (2) approved methods for the disposal of mortalities for broiler chicken operations: (a) composting in an approved compost shed; and (b) incineration in an approved incinerator.
63. Martha Cole, who was a resident of the Egypt community in Monroe County, Mississippi, contacted Peco Foods, expressing interest in contracting with Peco Foods to operate a broiler chicken farm on approximately 190 acres of land that she owned on Tumblin Road in Monroe County.
64. The property owned by Mrs. Cole had historically been utilized for agricultural purposes.
65. Mrs. Cole's plan was to build and operate six (6) poultry houses on the site, and for her son-in-law, Noland Skeels, who was moving to Mississippi from the state of Washington, to construct and operate another six (6) poultry houses.
66. Mrs. Cole had prior experience as a farmer in the hog industry, raising hogs for Prestage Farms as a contract grower in the Egypt community.
67. Martha Cole formed Cole's Poultry, LLC ("Cole's").
68. Noland Skeels formed Skeels Poultry, LLC ("Skeels").
69. In 2008, Martha Cole and Noland Skeels sought permits from the Mississippi Department of Environmental Quality to construct poultry CAFOs in Monroe County, Mississippi.
70. In 2009 Cole's Poultry obtained a Poultry CAFO Permit for the construction and operation of six (6) broiler chicken houses on Tumblin Road.

71. In 2009 Skeels Poultry obtained a Poultry CAFO Permit for the construction and operation of six (6) broiler chicken houses on Tumblin Road.
72. Cole's and Skeels each obtained the necessary financing for the construction of their facilities.
73. Cole's and Skeels each had six (6) mechanically ventilated chicken houses and a compost shed constructed on their properties on Tumblin Road.
74. The Cole's and Skeels' facilities both comply with the MDEQ 600 foot buffer zone.
75. Peco Foods' contracts with Cole's and Skeels provide in paragraph 11 that Cole's and Skeels are independent contractors.
76. Cole's and Skeels each complied with their Poultry CAFO permits throughout the relevant time period.
77. Plaintiffs all possessed, owned, or occupied their residences before the chicken facilities at issue in this case were built.
78. After learning of the plans to construct these poultry CAFOs to grow Peco Foods' chickens, a group known as Monroe County Concerned Citizens wrote a letter to Mark Hickman, CEO of Peco Foods on July 28, 2008, explaining their concerns with the proposed poultry operations in their area.
79. Peco Foods is a fully integrated poultry company, which means that it controls the entire process of poultry meat production from contracting with pullet producers to produce pullets to breeding age; contracting with breeding growers to produce hatching eggs, and it contracts with broiler growers to produce market age broilers. Peco has a feed mill, hatchery, and processing plant. Peco owns the birds throughout their life cycle before they are finally processed by Peco and distributed to the end user.
80. By October 28, 2009, Peco was aware that there were two hundred people that had concerns about this facility and Peco did not investigate who those people were or attempt to contact them before the houses were built.
81. Peco Foods, Inc. entered into a Broiler Grower Contract with Cole's Poultry on August 17, 2010.
82. Peco Foods, Inc. entered into a Broiler Grower Contract with Skeels' Poultry on September 20, 2010.

83. The barns at the Cole's and Skeels' poultry facilities were constructed according to specifications provided by Peco Foods.
84. Peco Foods provides specifications that must be followed for site preparation before construction of poultry facilities, such as those by Cole's and Skeels.
85. Peco Foods delivered baby birds to Cole's and Skeels and determined how many were to be delivered.
86. Cole's and Skeels were required to properly feed, raise to market age, and care for Peco Foods' chicks in accordance with Peco Foods' standards and could not dispose of them without the consent of Peco Foods.
87. Peco Foods furnished all feed and all medicines to Cole's and Skeels to be used in raising Peco Foods' broiler chickens.
88. Peco Foods dictated that the feed, medicine, and other supplies were to be used solely for taking care of Peco Foods' birds.
89. Peco Foods required Cole's and Skeels to maintain proper ventilation and litter conditions in accordance with Peco Foods' standards and Animal Welfare Guidelines.
90. Peco mandated that the Peco Foods, Inc. Growing Program was to be followed by Cole's and Skeels.
91. To ensure that Cole's and Skeels complied with Peco Foods' Growing Program, Peco Foods sent its employees, dubbed as service technicians, to routinely monitor Cole's and Skeels' activities.
92. Cole's and Skeels were required to maintain good and easily accessible roads to the poultry houses.
93. Cole's and Skeels were required to pay for wrecker or tow services for Peco Foods or Peco Foods' contractors resulting from faulty roads.
94. Peco Foods provided the "catching crew" that gathered the birds at the end of the flock from Cole's and Skeels for processing.
95. Peco Foods maintained title and ownership to the chickens at all times.
96. Peco Foods had the right to enter the chicken houses anytime it wanted to check on the birds.

97. Peco Foods did not allow Cole's or Skeels to use any feed, medication, herbicide, pesticide, rodenticide, insecticide or any other item except as supplied or approved in writing by Peco Foods.
98. Coles' and Skeels had no say in the type of broiler to be placed in the chicken houses, and those decisions are made solely by Peco Foods.
99. As part of Peco Foods' Growing Program, Cole's and Skeels were required to construct the chicken facilities as specified by Peco Foods and to follow instructions of Peco Foods in feeding, caring for, and growing Peco Foods' broiler chickens.
100. Peco Foods will not place any birds in Cole's and Skeels chicken houses until the houses pass Peco Foods pre-housing inspection requirements.
101. Although Plaintiffs have maintained a lawsuit against Peco Foods since July 20, 2011, and made their complaints known prior to filing suit, Peco Foods has not made any changes at the Cole's or Skeels facilities.
102. Peco Foods has made no effort to abate or control odors from the Cole's and Skeels chicken facilities.
103. The MDEQ does not regulate odors from the Cole's and Skeels chicken facilities.
104. The MDEQ does not regulate flies or other vectors from the Cole's and Skeels chicken facilities.
105. There are no state laws or regulations in Mississippi regarding odor emissions from confined animal feeding operations.
106. There are no local zoning ordinances or other ordinances that regulate odor emissions from confined animal feeding operations.
107. Peco Foods issued a letter of commitment to both Martha Cole and Noland Skeels on December 22, 2009, to build six broiler houses each that were to be built to Peco Foods, Inc.'s specifications.

**c. The contested issues of law are as follows:**

1. What duty, if any, did Peco owe to the plaintiffs?
2. What duty, if any, did Cole's Poultry owe to the plaintiffs?
3. What duty, if any, did Skeels Poultry owe to the plaintiffs?

4. Did Peco breach any duty owed to the Plaintiffs?
5. Did Cole's Poultry breach any duty owed to the Plaintiffs?
6. Did Skeels Poultry breach any duty owed to the Plaintiffs?
7. Is Cole's Poultry an independent contractor of Peco?
8. Is Skeels Poultry an independent contractor of Peco?
9. Does the doctrine of judicial estoppel bar the claims of Claude Devauld, Christine Devauld, and/or Mandolyn Boyd?
10. Whether plaintiffs are entitled to present their claims for punitive damages to the jury?

Some of the issues of fact mentioned in ¶ 9.b may necessarily be intertwined with issues of law, and to the extent that they are intertwined, the issues of fact are incorporated in this section.

**10. The following is a list and brief description of all exhibits (except exhibits to be used for impeachment purposes only) to be offered in evidence by the parties. Each exhibit has been marked for identification and examined by counsel.**

**a. To be offered by the Plaintiffs:**

<b>Exhibit Number</b>	<b>Description</b>	<b>Bates Number</b>
<b>P-1</b>	Boyd, Mandolyn Photos	MSPC000003
<b>P-2</b>	Devauld, Claude and Christine Photo	MSPC000035
<b>P-3</b>	Devauld, Claude and Christine Photos	MSPC000036-71
<b>P-4</b>	King, James, Sr. Calendar 2011	MSPC000161-170
<b>P-5</b>	King, James, Sr. Calendar 2014/2015	MSPC000558-570
<b>P-6</b>	Page, Lillie Calendar 2011	MSPC000211-221
<b>P-7</b>	Page, Lillie Photos	MSPC000227-239
<b>P-8</b>	Scott, Rodger and Charity Calendar	MSPC000305-315
<b>P-9</b>	Scott, Rodger and Charity Photos	MSPC000340-347
<b>P-10</b>	Scott, Rodger and Charity Photos	MSPC000348-366
<b>P-11</b>	Scott, Rodger and Charity Photos	MSPC000368-412
<b>P-12</b>	Truck photos for Scott and Tumblin	MSPC000300-304
<b>P-13</b>	Tumblin, Henry and Myrtice Calendar 2011	MSPC000430-439



<b>P-14</b>	Tumblin, Henry and Myrtice Photos	MSPC000440-444
<b>P-15</b>	Tumblin, Henry and Myrtice Calendar 2015	MSPC000522-533
<b>P-16</b>	Tumblin, Henry and Myrtice Calendar 2013	MSPC000534-545
<b>P-17</b>	Tumblin, Henry and Myrtice Calendar 2014	MSPC000546-557
<b>P-18</b>	Ware, Miloyd Calendar 2011	MSPC000496-505
<b>P-19</b>	Wilson, Valerie Mae Calendar November 2011	MSPC000508
<b>P-20</b>	Kathy Martin Photo	KINGKM000001-570
<b>P-21</b>	Kathy Martin Video	KINGKM000571
<b>P-22</b>	Kathy Martin Video	KINGKM000572
<b>P-23</b>	Kathy Martin Video	KINGKM000573
<b>P-24</b>	Kathy Martin Video	KINGKM000574
<b>P-25</b>	Kathy Martin Video	KINGKM000575
<b>P-26</b>	Kathy Martin Video	KINGKM000576
<b>P-27</b>	Kathy Martin Video	KINGKM000577
<b>P-28</b>	Kathy Martin Video	KINGKM000578
<b>P-29</b>	Kathy Martin Video	KINGKM000579
<b>P-30</b>	Kathy Martin Video	KINGKM000580
<b>P-31</b>	Kathy Martin Video	KINGKM000581
<b>P-32</b>	Kathy Martin Video	KINGKM000582
<b>P-33</b>	Kathy Martin Video	KINGKM000583
<b>P-34</b>	Kathy Martin Video	KINGKM000584
<b>P-35</b>	Kathy Martin Video	KINGKM000585
<b>P-36</b>	Kathy Martin Video	KINGKM000586
<b>P-37</b>	Kathy Martin Documents	KINGKM000587-642
<b>P-38</b>	Cole Farm Site Inspection 3.6.08	KINGMDEQ000004-18
<b>P-39</b>	ltr from MDEQ to Martha Cole re Permit approval 12.8.09	KINGMDEQ000019
<b>P-40</b>	ltr from MDEQ to Martha Cole re Permit approval 12.2.09	KINGMDEQ000021
<b>P-41</b>	MDEQ ltrs to Pltfs re Skeels and Cole Farms 12.1.09	KINGMDEQ000023-24
<b>P-42</b>	Dry Litter Poultry Animal Feeding Operation General Permit Notice of Intent (DLPNOI)	KINGMDEQ000028-30
<b>P-43</b>	Permit Action Form - Cole Farm, Tumblin Road, Aberdeen, MS 39730	KINGMDEQ000031-44
<b>P-44</b>	DEQ-OPC Request for Inspection of Site for Proposed Wastewater Treatment Facility Animal Waste	KINGMDEQ000045
<b>P-45</b>	Comprehensive Nutrient Management Plan for Cole Farm No. 1 Broiler Poultry Operation	KINGMDEQ000046-91

<b>P-46</b>	Site Inspection/Investigation Form - Cole Farm	KINGMDEQ000095-101
<b>P-47</b>	Memorandum - Request for Site Inspection - WATER - Cole Farm	KINGMDEQ000102
<b>P-48</b>	Letter - From: Wilson (DEQ) To: Cole Re: Dry Litter Poultry CAFO Coverage No. MSG150467	KINGMDEQ000103-104
<b>P-49</b>	Facility Data Screen	KINGMDEQ000109
<b>P-50</b>	Permit Action Form - Cole Farm, Tumblin Road, Aberdeen, MS 39730	KINGMDEQ000110-165
<b>P-51</b>	Comprehensive Nutrient Management Plan for Cole Farm No. 1 Broiler Poultry Operation	KINGMDEQ000166-209
<b>P-52</b>	Site Inspection/Investigation Form - Skeels Farm	KINGMDEQ000213-219
<b>P-53</b>	Memorandum - Request for Site Inspection - WATER - Skeels Farm	KINGMDEQ000220
<b>P-54</b>	Application	KINGMDEQ000223-228
<b>P-55</b>	Memorandum - Request for Site Inspection - WATER - Skeels Farm	KINGMDEQ000229
<b>P-56</b>	Letter - From: Wilson (DEQ) To: Skeels Re: Dry Litter Poultry CAFO Coverage No. MSG150469	KINGMDEQ000230-231
<b>P-57</b>	Facility Data Screen	KINGMDEQ000232
<b>P-58</b>	Permit Action Form - Skeels Farm, Tumblin Road, Aberdeen, MS 39730	KINGMDEQ000233-291
<b>P-59</b>	USEPA Application for Permit to Discharge Wastewater	KINGMDEQ000294-297
<b>P-60</b>	DEQ-OPC Request for Inspection of Site for Proposed Wastewater Treatment Facility Animal Waste	KINGMDEQ000298
<b>P-61</b>	Comprehensive Nutrient Management Plan for Skeels Farm No. 1 Broiler Poultry Operation	KINGMDEQ000299-338
<b>P-62</b>	Pltf's Opposition Letter	KINGMDEQ000353-354
<b>P-63</b>	Pltf's Opposition Letter	KINGMDEQ000355
<b>P-64</b>	Pltf's Opposition Letter	KINGMDEQ000356-357
<b>P-65</b>	Pltf's Opposition Letter	KINGMDEQ000358
<b>P-66</b>	Pltf's Opposition Letter	KINGMDEQ000359
<b>P-67</b>	Pltf's Opposition Letter	KINGMDEQ000360
<b>P-68</b>	Pltf's Opposition Letter	KINGMDEQ000361
<b>P-69</b>	Pltf's Opposition Letter	KINGMDEQ000362
<b>P-70</b>	Pltf's Opposition Letter	KINGMDEQ000363

<b>P-71</b>	Pltf's Opposition Letter	KINGMDEQ000364
<b>P-72</b>	Pltf's Opposition Letter	KINGMDEQ000365
<b>P-73</b>	Pltf's Opposition Letter	KINGMDEQ000366
<b>P-74</b>	Pltf's Opposition Letter	KINGMDEQ000367
<b>P-75</b>	Pltf's Opposition Letter	KINGMDEQ000368
<b>P-76</b>	Pltf's Opposition Letter	KINGMDEQ000369
<b>P-77</b>	Pltf's Opposition Letter	KINGMDEQ000370
<b>P-78</b>	Pltf's Opposition Letter	KINGMDEQ000371
<b>P-79</b>	Pltf's Opposition Letter	KINGMDEQ000372
<b>P-80</b>	Pltf's Opposition Letter	KINGMDEQ000373
<b>P-81</b>	Pltf's Opposition Letter	KINGMDEQ000374
<b>P-82</b>	Pltf's Opposition Letter	KINGMDEQ000375-376
<b>P-83</b>	Pltf's Opposition Letter	KINGMDEQ000378-380
<b>P-84</b>	Pltf's Opposition Letter	KINGMDEQ000381-383
<b>P-85</b>	Pltf's Opposition Letter	KINGMDEQ000384-386
<b>P-86</b>	Peition to Monroe County Supervisors	KINGMDEQ000387-403
<b>P-87</b>	MDEQ ltr to Skeels re Permit Coverage 6.2.14	KINGMDEQ000446-447
<b>P-88</b>	MDEQ ltr to Skeels re Permit Coverage 12.8.09	KINGMDEQ000448-449
<b>P-89</b>	MDEQ ltrs to Pltfs re Skeels and Cole Farms 12.1.09	KINGMDEQ000450-456
<b>P-90</b>	Skeels Nutrient Management Plan for Mar. 2014 - Feb 2019	KINGMDEQ000468-512
<b>P-91</b>	Skeels Operation General Permit Notice of Intent 2.19.14	KINGMDEQ000513-515
<b>P-92</b>	Permit Action Form Skeels Farm 10.3.09	KINGMDEQ000516-517
<b>P-93</b>	Project Awareness Checklist Skeels Farm	KINGMDEQ000523-529
<b>P-94</b>	Peco ltr of Commitment 9.21.08	KINGMDEQ000531
<b>P-95</b>	Peco ltr of Commitment 5.08.09	KINGMDEQ000539
<b>P-96</b>	Notice of Intent Pollution Control Permit No. MSG200288 10.13.08	KINGMDEQ000540-546
<b>P-97</b>	Nurient Mangament Plan for Skeels 9.28.09	KINGMDEQ000547-592
<b>P-98</b>	Notice of Intent Pollution Control Permit No. MSG200288 2.25.09	KINGMDEQ000593-599
<b>P-99</b>	Nurient Mangament Plan for Skeels 9.28.09	KINGMDEQ000603-635
<b>P-100</b>	Broiler Grower Contract between Cole and Peco 8.17.10	Cole's -0002-11
<b>P-101</b>	Peco ltr to Cole re changes to contracts 1.30.12	Cole's -0012
<b>P-102</b>	Broiler Grower Contract between Cole and Peco 2.28.12	Cole's -0013-29

<b>P-103</b>	Daily Mortality Sheets	Cole's -0030-44
<b>P-104</b>	Monthly Litter Storage	Cole's -0045-56
<b>P-105</b>	MDEQ Permit MSG20	Cole's -0057-75
<b>P-106</b>	Notice of Intent	Cole's -0077-83
<b>P-107</b>	USEPA Application for Permit to Discharge Wastewater	Cole's -0084-87
<b>P-108</b>	Request of Inspection	Cole's -0088
<b>P-109</b>	Quality Farm Construction Inc.	Cole's -0089-90
<b>P-110</b>	Quality Farm Construction Inc.	Cole's -0091-92
<b>P-111</b>	Permit 4.15.08	Cole's -0093-141
<b>P-112</b>	Soil test results	Cole's -0146-148
<b>P-113</b>	Boiler Room Service Reports	Cole's -0154-159
<b>P-114</b>	Dead Compost Worksheet	Cole's -0160
<b>P-115</b>	Cole Nutrient Management Plan 2008	Cole's -0161-193
<b>P-116</b>	Hand written note re problems with permit	Peco-0008
<b>P-117</b>	Broiler Contract between Skeels and Peco 9.20.10	Peco-0015-24
<b>P-118</b>	Peco Broiler House Specs	Peco-1909-1918
<b>P-119</b>	Facility Layout	Peco-1919-1922
<b>P-120</b>	Peco Broiler Growing Program	Peco-1923-1939
<b>P-121</b>	Peco Flock Settlement	Peco-1940-1947
<b>P-122</b>	Flock Transactions	Peco-1948-1950
<b>P-123</b>	Peco Flock Settlement	Peco-1951-1958
<b>P-124</b>	Peco Board of Directors	Peco-1959-1960
<b>P-125</b>	Pltfs' Opposition Letter to Hickman 7.28.08	Peco-1961-1962
<b>P-126</b>	Peco Foods response to Pltfs 8.4.08	Peco-1963-1964
<b>P-127</b>	Kathy Martin Expert Report with attachments	
<b>P-128</b>	Robert Hall Expert Report with attachment	
<b>P-129</b>	Robert Hall Supplemental Expert Report	
<b>P-130</b>	Weather Data for Aberdeen, MS	Demonstrative

Plaintiffs reserve the right to use the following categories of documents as exhibits in addition to those specific exhibits identified:

- All documents produced by Defendants and Plaintiffs;
- All documents produced by any third party;
- All documents received pursuant to subpoena
- All Interrogatory responses of any party;
- All exhibits listed by the Defendants;
- All exhibits to all depositions taken in this litigation;
- All pleadings filed by any party

- Any and all reports by any expert witness in this litigation;
- All documents relied upon by any expert
- All documents necessary for foundation and authenticity;
- All documents located in further discovery; and
- All maps and demonstratives prepared between now and the time of trial.

The authenticity and admissibility in evidence of the preceding exhibits are stipulated. If the authenticity or admissibility of any of the preceding exhibits is objected to, the exhibit must be identified below, together with a statement of the specified evidentiary ground(s) for the objection(s):

**Defendant objects to admission of the following above-listed documents:**

- P-4: FRE 401, FRE 402, FRE 403
- P-5: FRE 401, FRE 402, FRE 403, Doc. 412
- P-15: FRE 401, FRE 402, FRE 403, Doc. 412
- P-16: FRE 401, FRE 402, FRE 403, Doc. 412
- P-17: FRE 401, FRE 402, FRE 403, Doc. 412
- P-18: FRE 401, FRE 402, FRE 403
- P-19: FRE 401, FRE 402, FRE 403
- P-37: FRE 401, FRE 402, FRE 403, FRE 802
- P-42: FRE 401, FRE 402, FRE 403, Doc. 412
- P-63: FRE 401, FRE 402, FRE 403
- P-64: FRE 401, FRE 402, FRE 403
- P-69: FRE 401, FRE 402, FRE 403
- P-87: FRE 401, FRE 402, FRE 403, Doc. 412
- P-90: FRE 401, FRE 402, FRE 403, Doc. 412
- P-91: FRE 401, FRE 402, FRE 403, Doc. 412
- P-101: FRE 401, FRE 402, FRE 403, Doc. 412
- P-102: FRE 401, FRE 402, FRE 403, Doc. 412
- P-103: FRE 401, FRE 402, FRE 403, Doc. 412
- P-104: FRE 401, FRE 402, FRE 403, Doc. 412
- P-116: FRE 401, FRE 402, FRE 403, FRE 802
- P-121: FRE 401, FRE 402, FRE 403; subject to Protective Order
- P-122: FRE 401, FRE 402, FRE 403; subject to Protective Order
- P-123: FRE 401, FRE 402, FRE 403; subject to Protective Order
- P-127: FRE 802, FRE 901
- P-128: FRE 802, FRE 901
- P-129: FRE 802, FRE 901
- P-130: FRE 401, FRE 402, FRE 403
- Defendant further objects to Plaintiffs' reservation of rights to use exhibits encompassed by the broad and vague categories described by Plaintiffs above. Defendant reserves its

right to object to any exhibit if Defendant has not specifically stipulated to the authenticity and admissibility of that exhibit.

**b. To be offered by the Defendant:**

<b>D-1</b>	Cole's 2010 Contract	Cole 0002-0011
<b>D-2</b>	Cole's Daily Morality Recordkeeping Log Sheet	Cole 0036-0044
<b>D-3</b>	Litter Storage Inspection Logs	Cole 0047-0048
<b>D-4</b>	Litter Transfer Record Form	Cole 0055
<b>D-5</b>	Land Application Log Sheet	Cole 0056
<b>D-6</b>	Contract between Cole and Quality Farm Construction	Cole 0089-0092
<b>D-7</b>	Cole Property Deed	Cole 0195-0196
<b>D-8</b>	Skeels Permit	Skeels 0001-0040
<b>D-9</b>	Skeels Nutrient Management Plan	Skeels 0068-0080
<b>D-10</b>	Skeels Litter Transfer Form	Skeels 0081
<b>D-11</b>	Skeels Daily Mortality Logs	Skeels 0105-0112
<b>D-12</b>	Skeels Land Application Log	Skeels 0117
<b>D-13</b>	Skeels Litter Storage Inspection Log	Skeels 0121-0122
<b>D-14</b>	Skeels Contract with Quality Farm Construction	Skeels 0127-0129
<b>D-15</b>	Skeels Poultry Contract	Peco 0015-0024
<b>D-16</b>	Service Reports for Skeels	Peco 0057-0089
<b>D-17</b>	Service Reports for Cole's	Peco 0107-0116; 0128-0165
<b>D-18</b>	Peco's Catch and Pick-Up Schedules	Peco 0001-0002
<b>D-19</b>	Chick Placement Ticket (Skeels 9/7/10)	Peco 0212
<b>D-20</b>	Chick Placement Ticket (Skeels 9/9/10)	Peco 0214
<b>D-21</b>	Chick Placement Ticket (Skeels 11/19/10)	Peco 0255
<b>D-22</b>	Chick Placement Ticket (Skeels 11/23/10)	Peco 0257
<b>D-23</b>	Chick Placement Ticket (Skeels 2/3/11)	Peco 0290
<b>D-24</b>	Chick Placement Ticket (Skeels 2/1/11)	Peco 0292
<b>D-25</b>	Chick Placement Ticket (Skeels 4/14/11)	Peco 0332
<b>D-26</b>	Chick Placement Ticket (Skeels 4/12/11)	Peco 0334
<b>D-27</b>	Chick Placement Ticket (Skeels 6/21/11)	Peco 0377
<b>D-28</b>	Chick Placement Ticket (Skeels 6/23/11)	Peco 0379
<b>D-29</b>	Birds to Market (Skeels 10-29-10)	Peco 0172
<b>D-30</b>	Birds to Market (Skeels 11-1-10)	Peco 0173
<b>D-31</b>	Birds to Market (Skeels 1-13-11)	Peco 0216
<b>D-32</b>	Birds to Market (Skeels 1-12-11)	Peco 0217
<b>D-33</b>	Birds to Market (Skeels 6-2-11)	Peco 0294
<b>D-34</b>	Birds to Market (Skeels 6-3-11)	Peco 0295

<b>D-35</b>	Birds to Market (Cole 10-11-10)	Peco 0596
<b>D-36</b>	Birds to Market (Cole 10-12-10)	Peco 0597
<b>D-37</b>	Chick Placement Ticket (Cole 8-17-10)	Peco 0637
<b>D-38</b>	Chick Placement Ticket (Cole 8-19-10)	Peco 0639
<b>D-39</b>	Birds to Market (Cole 12-16-10)	Peco 0641
<b>D-40</b>	Birds to Market (Cole 12-15-10)	Peco 0642
<b>D-41</b>	Birds to Market (Cole 3-3-11)	Peco 0680
<b>D-42</b>	Birds to Market (Cole 3-2-11)	Peco 0681
<b>D-43</b>	Chick Placement Ticket (Cole 1-13-11)	Peco 0715
<b>D-44</b>	Chick Placement Ticket (Cole 1-11-11)	Peco 0717
<b>D-45</b>	Birds to Market (Cole 5-7-11)	Peco 0719
<b>D-46</b>	Birds to Market (Cole 5-6-11)	Peco 0720
<b>D-47</b>	Birds to Market (Cole 5-6-11)	Peco 0721
<b>D-48</b>	Birds to Market (Cole 5-7-11)	Peco 0723
<b>D-49</b>	Birds to Market (Cole 5-6-11)	Peco 0722
<b>D-50</b>	Birds to Market (Cole 7-15-11)	Peco 0794
<b>D-51</b>	Birds to Market (Cole 7-18-11)	Peco 0795
<b>D-52</b>	Chick Placement Ticket (Cole 5-26-11)	Peco 0833
<b>D-53</b>	Chick Placement Ticket (Cole 5-27-11)	Peco 0835
<b>D-54</b>	Peco Poultry House Design	Peco 1919-1922
<b>D-55</b>	Peco Site Prep Specifications	Peco 1909-1918
<b>D-56</b>	Peco Broiler Growing Program	Peco 1923-1939
<b>D-57</b>	Peco Organizational Chart	Peco 1959
<b>D-58</b>	Peco Response to Monroe County Concerned Citizens	Peco 1963-1964
<b>D-59</b>	Location of Plaintiffs' Residences in Relation to the Skeels and Cole Farms	Updated Version of Figure 1 from Expert Report of John Kind, Ph.D., CIH
<b>D-60</b>	An Odor Intensity Function for n-Butanol	Figure 2 from Expert Report of John Kind, Ph.D., CIH
<b>D-61</b>	Map of Hoover, Skeels, and Cole Poultry Farms	Figure 3 from Expert Report of John Kind, Ph.D., CIH
<b>D-62</b>	Map of Odor Monitoring Events on March 14, 2016	Figure 4 from Expert Report of John Kind, Ph.D., CIH
<b>D-63</b>	Map of Odor Monitoring Events on March 15, 2016	Figure 5 from Expert Report of John Kind, Ph.D., CIH
<b>D-64</b>	Map of Cumulative Odor Readings on March 14-15, 2016	Figure 6 from Expert Report of John Kind, Ph.D., CIH
<b>D-65</b>	Total Number of Odor Monitoring Events per Odor Dilution Ratio	Figure 7 from Expert Report of John Kind, Ph.D., CIH
<b>D-66</b>	Trend Analysis of Odor Concentration and Distance from Hoover Poultry Farm	Figure 8 from Expert Report of John Kind, Ph.D., CIH
<b>D-67</b>	Trend Analysis of Hedonic Tone and Distance from Hoover Poultry Farm	Figure 9 from Expert Report of John Kind, Ph.D., CIH



<b>D-68</b>	Map of Odor Monitoring Events on March 16-18, 2016	Figure 10 from Expert Report of John Kind, Ph.D., CIH
<b>D-69</b>	Pie Chart Depicting the Distribution of Odor Concentrations Recorded during the Odor Investigation near the Skeels and Cole Farms	Figure 11 from Expert Report of John Kind, Ph.D., CIH
<b>D-70</b>	Pie Chart Depicting the Distribution of Odor Group Classifications of Odor Readings Recorded During the Odor Investigation Near the Skeels and Cole Farms	Figure 12 from Expert Report of John Kind, Ph.D., CIH
<b>D-71</b>	Frequency of Odors Described in Plaintiff Depositions	Updated Version of Figure 13 from Expert Report of John Kind, Ph.D., CIH
<b>D-72</b>	Columbus AFB Weather Station Wind Direction (1974-2012)	Figure 14 from Expert Report of John Kind, Ph.D., CIH
<b>D-73</b>	Frequency of Plaintiffs' Odor Complaints	Updated Version of Figure 15 from Expert Report of John Kind, Ph.D., CIH
<b>D-74</b>	Proximity of Plaintiffs' Residences to Boundary of Skeels and Cole Farms	Updated Version of Table 1 from Expert Report of John Kind, Ph.D., CIH
<b>D-75</b>	Dilution to Threshold Ratios Associated with Various Odor Intensities	Table 2 from Expert Report of John Kind, Ph.D., CIH
<b>D-76</b>	State Regulations Regarding Nuisance Odors	Table 3 from Expert Report of John Kind, Ph.D., CIH
<b>D-77</b>	Nasal Ranger® Odor Readings on March 14, 2016	Table 4 from Expert Report of John Kind, Ph.D., CIH
<b>D-78</b>	Nasal Ranger® Odor Readings on March 15, 2016	Table 5 from Expert Report of John Kind, Ph.D., CIH
<b>D-79</b>	Cumulative Hoover Poultry Farm Odor Readings by Distance to Odor Source	Table 6 from Expert Report of John Kind, Ph.D., CIH
<b>D-80</b>	Mann-Kendall Trend Analysis of Distance with Odor Concentration and Hedonic Tone	Table 7 from Expert Report of John Kind, Ph.D., CIH
<b>D-81</b>	Cumulative Nasal Ranger® Odor Readings at Skeels and Cole Farms March 16-18, 2016	Table 8 from Expert Report of John Kind, Ph.D., CIH
<b>D-82</b>	Primary Odor Group Classification of Readings Collected Near the Skeels and Cole Farms	Table 9 from Expert Report of John Kind, Ph.D., CIH
<b>D-83</b>	Figure #1	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-84</b>	Figure #2	Expert Report of Dr. Maxcy P.



		Nolan, III
<b>D-85</b>	Figure #3	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-86</b>	Figure #4	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-87</b>	Photo #1	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-88</b>	Photo #2	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-89</b>	Photo #3	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-90</b>	Photo #4	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-91</b>	Photo #5	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-92</b>	Photo #6	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-93</b>	Photo #7	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-94</b>	Photo #8	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-95</b>	Photo #9	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-96</b>	Photo #10	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-97</b>	Photo #11	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-98</b>	Photo #12	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-99</b>	Photo #13	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-100</b>	Photo #14	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-101</b>	Photo #15	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-102</b>	Photo #16	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-103</b>	Photo #17	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-104</b>	Photo #18	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-105</b>	Photo #19	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-106</b>	Photo #20	Expert Report of Dr. Maxcy P.

		Nolan, III
<b>D-107</b>	Photo #21	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-108</b>	Photo #22	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-109</b>	Photo #23	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-110</b>	Robbie Fields Proof of Claim filed in Cole's Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13212-JDW
<b>D-111</b>	Robbie Fields Proof of Claim filed in Skeels' Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13213-JDW
<b>D-112</b>	Ira Fields Proof of Claim filed in Cole's Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13212-JDW
<b>D-113</b>	Ira Fields Proof of Claim filed in Skeels' Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13213-JDW
<b>D-114</b>	Henry Tumblin Proof of Claim filed in Cole's Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13212-JDW
<b>D-115</b>	Henry Tumblin Proof of Claim filed in Skeels' Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13213-JDW
<b>D-116</b>	Myrtice Tumblin Proof of Claim filed in Cole's Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13212-JDW
<b>D-117</b>	Myrtice Tumblin Proof of Claim filed in Skeels' Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13213-JDW
<b>D-118</b>	Lillie Page Proof of Claim filed in Cole's Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13212-JDW
<b>D-119</b>	Lillie Page Proof of Claim filed in Skeels'	United States Bankruptcy Court

	Poultry, LLC's bankruptcy case	for the Northern District of Mississippi, Case No. 12-13213-JDW
<b>D-120</b>	Claude Devauld Proof of Claim filed in Cole's Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13212-JDW
<b>D-121</b>	Claude Devauld Proof of Claim filed in Skeels' Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13213-JDW
<b>D-122</b>	Christine Devauld Proof of Claim filed in Cole's Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13212-JDW
<b>D-123</b>	Christine Devauld Proof of Claim filed in Skeels' Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13213-JDW
<b>D-124</b>	Stella Dobson Proof of Claim filed in Cole's Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13212-JDW
<b>D-125</b>	Stella Dobson Proof of Claim filed in Skeels' Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13213-JDW
<b>D-126</b>	Caron Ewing Proof of Claim filed in Cole's Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13212-JDW
<b>D-127</b>	Caron Ewing Proof of Claim filed in Skeels' Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13213-JDW
<b>D-128</b>	Mandolyn Boyd Proof of Claim filed in Cole's Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13212-JDW
<b>D-129</b>	Mandolyn Boyd Proof of Claim filed in Skeels' Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13213-JDW
<b>D-130</b>	James Lenoir Proof of Claim filed in	United States Bankruptcy Court

	Cole's Poultry, LLC's bankruptcy case	for the Northern District of Mississippi, Case No. 12-13212-JDW
<b>D-131</b>	James Lenoir Proof of Claim filed in Skeels' Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13213-JDW
<b>D-132</b>	Charity Scott Proof of Claim filed in Cole's Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13212-JDW
<b>D-133</b>	Charity Scott Proof of Claim filed in Skeels' Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13213-JDW
<b>D-134</b>	Chasity Young Proof of Claim filed in Cole's Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13212-JDW
<b>D-135</b>	Chasity Young Proof of Claim filed in Skeels' Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13213-JDW
<b>D-136</b>	Larry Porter Proof of Claim filed in Cole's Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13212-JDW
<b>D-137</b>	Larry Porter Proof of Claim filed in Skeels' Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13213-JDW
<b>D-138</b>	Amanda Boggan Proof of Claim filed in Cole's Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13212-JDW
<b>D-139</b>	Amanda Boggan Proof of Claim filed in Skeels' Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13213-JDW
<b>D-140</b>	Pamela McAlister Proof of Claim filed in Cole's Poultry, LLC's bankruptcy case	United States Bankruptcy Court for the Northern District of Mississippi, Case No. 12-13212-JDW
<b>D-141</b>	Pamela McAlister Proof of Claim filed in	United States Bankruptcy Court

	Skeels' Poultry, LLC's bankruptcy case	for the Northern District of Mississippi, Case No. 12-13213-JDW
<b>D-142</b>	MDEQ File for Cole's Poultry, LLC and Skeels Poultry, LLC	Mississippi Department of Environmental Quality Freedom of Information Office; MDEQ 000001-000737
<b>D-143</b>	MDEQ Records from December 8, 2009 Permit Board meeting	Mississippi Department of Environmental Quality Freedom of Information Office; MDEQ 000738-000758
<b>D-144</b>	Landroll Inquiry for 20051 Tumblin Road setting forth property value for 2009 (Henry and Myrtice Tumblin)	Monroe County Tax Assessor's Office; Monroe County 000001
<b>D-145</b>	Landroll Inquiry for 20051 Tumblin Road setting forth property value for 2010 (Henry and Myrtice Tumblin)	Monroe County Tax Assessor's Office; Monroe County 000002
<b>D-146</b>	Landroll Inquiry for 20051 Tumblin Road setting forth property value for 2011 (Henry and Myrtice Tumblin)	Monroe County Tax Assessor's Office; Monroe County 000003
<b>D-147</b>	Landroll Inquiry for 20010 Tumblin Circle setting forth property value for 2009 (Claude and Christine Devauld)	Monroe County Tax Assessor's Office; Monroe County 000004
<b>D-148</b>	Landroll Inquiry for 20010 Tumblin Circle setting forth property value for 2010 (Claude and Christine Devauld)	Monroe County Tax Assessor's Office; Monroe County 000005
<b>D-149</b>	Landroll Inquiry for 20010 Tumblin Circle setting forth property value for 2011 (Claude and Christine Devauld)	Monroe County Tax Assessor's Office; Monroe County 000006
<b>D-150</b>	Landroll Inquiry for 20015 Tumblin Circle setting forth property value for 2009 (Stella Dobson)	Monroe County Tax Assessor's Office; Monroe County 000007
<b>D-151</b>	Landroll Inquiry for 20015 Tumblin Circle setting forth property value for 2010 (Stella Dobson)	Monroe County Tax Assessor's Office; Monroe County 000008
<b>D-152</b>	Landroll Inquiry for 20015 Tumblin Circle setting forth property value for 2011 (Stella Dobson)	Monroe County Tax Assessor's Office; Monroe County 000009
<b>D-153</b>	Mobile Home Receipt Maintenance for 20020 Tumblin Circle setting forth property value for 2009 (Lillie Page)	Monroe County Tax Collector's Office; Monroe County 000010
<b>D-154</b>	Mobile Home Receipt Maintenance for 20020 Tumblin Circle setting forth property value for 2010 (Lillie Page)	Monroe County Tax Collector's Office; Monroe County 000011

<b>D-155</b>	Mobile Home Receipt Maintenance for 20020 Tumblin Circle setting forth property value for 2011 (Lillie Page)	Monroe County Tax Collector's Office; Monroe County 000012
<b>D-156</b>	Landroll Inquiry for 20020 Tumblin Circle setting forth property value for 2009 (Lillie Page)	Monroe County Tax Assessor's Office; Monroe County 000013
<b>D-157</b>	Landroll Inquiry for 20020 Tumblin Circle setting forth property value for 2010 (Lillie Page)	Monroe County Tax Assessor's Office; Monroe County 000014
<b>D-158</b>	Landroll Inquiry for 20020 Tumblin Circle setting forth property value for 2011 (Lillie Page)	Monroe County Tax Assessor's Office; Monroe County 000015
<b>D-159</b>	Landroll Inquiry for 20038 Gillespie Drive setting forth property value for 2009 (Charity Scott)	Monroe County Tax Assessor's Office; Monroe County 000016
<b>D-160</b>	Landroll Inquiry for 20038 Gillespie Drive setting forth property value for 2010 (Charity Scott)	Monroe County Tax Assessor's Office; Monroe County 000017
<b>D-161</b>	Landroll Inquiry for 20038 Gillespie Drive setting forth property value for 2011 (Charity Scott)	Monroe County Tax Assessor's Office; Monroe County 000018
<b>D-162</b>	Landroll Inquiry for 20069 Tumblin Road setting forth property value for 2009 (Ira and Robbie Fields)	Monroe County Tax Assessor's Office; Monroe County 000019
<b>D-163</b>	Landroll Inquiry for 20069 Tumblin Road setting forth property value for 2010 (Ira and Robbie Fields)	Monroe County Tax Assessor's Office; Monroe County 000020
<b>D-164</b>	Landroll Inquiry for 20069 Tumblin Road setting forth property value for 2011 (Ira and Robbie Fields)	Monroe County Tax Assessor's Office; Monroe County 000021
<b>D-165</b>	Mobile Home Receipt Maintenance for 20069 Tumblin Road setting forth property value for 2009 (Ira and Robbie Fields)	Monroe County Tax Collector's Office; Monroe County 000022
<b>D-166</b>	Mobile Home Receipt Maintenance for 20069 Tumblin Road setting forth property value for 2010 (Ira and Robbie Fields)	Monroe County Tax Collector's Office; Monroe County 000023
<b>D-167</b>	Mobile Home Receipt Maintenance for 20069 Tumblin Road setting forth property value for 2011 (Ira and Robbie Fields)	Monroe County Tax Collector's Office; Monroe County 000024
<b>D-168</b>	Landroll Inquiry for 20025 Tumblin Road setting forth property value for 2009 (Mandolyn Boyd)	Monroe County Tax Assessor's Office; Monroe County 000025
<b>D-169</b>	Landroll Inquiry for 20025 Tumblin Road setting forth property value for 2010	Monroe County Tax Assessor's Office;

	(Mandolyn Boyd)	Monroe County 000026
<b>D-170</b>	Landroll Inquiry for 20025 Tumblin Road setting forth property value for 2011 (Mandolyn Boyd)	Monroe County Tax Assessor's Office; Monroe County 000027
<b>D-171</b>	Landroll Inquiry for 20115 Egypt Road setting forth property value for 2009 (James Lenoir)	Monroe County Tax Assessor's Office; Monroe County 000028
<b>D-172</b>	Landroll Inquiry for 20115 Egypt Road setting forth property value for 2010 (James Lenoir)	Monroe County Tax Assessor's Office; Monroe County 000029
<b>D-173</b>	Landroll Inquiry for 20115 Egypt Road setting forth property value for 2011 (James Lenoir)	Monroe County Tax Assessor's Office; Monroe County 000030
<b>D-174</b>	Landroll Inquiry for 20268 Tumblin Road setting forth property value for 2011 (Chasity Young)	Monroe County Tax Assessor's Office; Monroe County 000031
<b>D-175</b>	Building Descriptions for 20268 Tumblin Road (Chasity Young)	Monroe County Tax Collector's Office; Monroe County 000032
<b>D-176</b>	Mobile Home File Maintenance for 20017 Glenn T Road setting forth year of registration (Pamela McAlister)	Monroe County Tax Collector's Office; Monroe County 000033
<b>D-177</b>	Landroll Inquiry for 20138 White Rock Road setting forth property value for 2012 (Amanda Boggan)	Monroe County Tax Assessor's Office; Monroe County 000034
<b>D-178</b>	Building Descriptions for 20138 White Rock Road (Amanda Boggan)	Monroe County Tax Collector's Office; Monroe County 000035
<b>D-179</b>	Landroll Inquiry for 20027 Tumblin Road setting forth property value for 2009 (Caron Ewing)	Monroe County Tax Assessor's Office; Monroe County 000036
<b>D-180</b>	Landroll Inquiry for 20027 Tumblin Road setting forth property value for 2010 (Caron Ewing)	Monroe County Tax Assessor's Office; Monroe County 000037
<b>D-181</b>	Landroll Inquiry for 20027 Tumblin Road setting forth property value for 2011 (Caron Ewing)	Monroe County Tax Assessor's Office; Monroe County 000038
<b>D-182</b>	Photos of 20023 Glenn T Road (Lillie Page)	
<b>D-183</b>	Photos of 20069 Tumblin Road (Ira and Robbie Fields)	Peco 001965
<b>D-184</b>	Photos of 20268 Tumblin Road (Chasity Young)	Peco 001966-001967
<b>D-185</b>	Photos of 20419 Egypt Road (Pamela	Peco 001968



	McAlister)	
<b>D-186</b>	Photos of 20138 White Rock Road (Amanda Boggan)	
<b>D-187</b>	Photos of 20182 White Rock Road (Larry Porter)	Peco 001969-001972
<b>D-188</b>	City of Okolona Electric Department Records for Pamela McAlister	Peco 002030-002031
<b>D-189</b>	Lee County Circuit Court Records for James Lenoir	Peco 002000-002029
<del><b>D-190</b></del>	<del>Photo of Ira and Robbie Fields Walking</del>	<del>Peco 001973</del>
<del><b>D-191</b></del>	<del>Photos of Myrtice Tumblin Walking</del>	<del>Peco 001974-001978</del>
<b>D-192</b>	Photos of People Outside at Chasity Young's House	Peco 001979-001982
<b>D-193</b>	Photo of Charity and Rodger Scott Outside	Peco 001983
<b>D-194</b>	Photos of People Outside at William and Inez Elliot's House	Peco 001984-001986
<b>D-195</b>	Photos of Children Outside at Anna Clopton's House	Peco 001987-001991
<b>D-196</b>	Myrtice Tumblin's Odor Log	MSPC 000430-000433
<b>D-197</b>	Lillie Page's Odor Log	MSPC 000211-000216
<b>D-198</b>	Charity Scott's Odor Log	MSPC 000305-000310
<b>D-199</b>	Curriculum Vitae of John Kind, Ph.D., CIH	Expert Report of John Kind, Ph.D., CIH
<b>D-200</b>	Curriculum Vitae of Maxcy P. Nolan, III, Ph.D.	Expert Report of Dr. Maxcy P. Nolan, III
<b>D-201</b>	Curriculum Vitae of George Malone	Expert Report of George Malone
<del><b>D-202</b></del>	<del>Photos of Children Outside at Henry and Myrtice Tumblin's House</del>	<del>Peco 001992-001993</del>
<del><b>D-203</b></del>	<del>Photos of People Outside at Amanda Boggan's House</del>	<del>Peco 001994-001995</del>
<b>D-204</b>	Nasal Ranger® Odor Descriptors	Expert Report of John Kind, Ph.D., CIH
<b>D-205</b>	Nasal Ranger® Odor Collected Readings	Expert Report of John Kind, Ph.D., CIH
<b>D-206</b>	Mobile Home Receipt Maintenance for 20020 Tumblin Circle setting forth property value for 2012 (Lillie Page)	Monroe County Tax Collector's Office; Monroe County 000040
<b>D-207</b>	Mobile Home Receipt Maintenance for 20069 Tumblin Road setting forth property value for 2012 (Ira and Robbie Fields)	Monroe County Tax Collector's Office; Monroe County 000039
<b>D-208</b>	Photos of 20010 Egypt Road (Noland Skeels)	Peco 001996
<b>D-209</b>	Fly Strip Client Sheet (Installation)	Supplemental Expert Report of Robert D. Hall, Ph.D., J.D.



<b>D-210</b>	Weather Data for 1/25/16	Exhibit 5 to Deposition of Robert D. Hall, Ph.D., J.D.
<b>D-211</b>	Weather Data for 5/10/16	Exhibit 7 to Deposition of Robert D. Hall, Ph.D., J.D.
<b>D-212</b>	Weather Data for 5/6/16	Exhibit 11 to Deposition of Robert D. Hall, Ph.D., J.D.
<b>D-213</b>	Fly Strip Client Sheet (Removal)	Exhibit 12 to Deposition of Robert D. Hall, Ph.D., J.D.
<b>D-214</b>	City of Okolona Electric Department Records for Larry Porter	Peco 002032-002033; 002039-002040
<b>D-215</b>	Photos of Cole Farms	Peco 001997-001998
<b>D-216</b>	Photo of Hi-Lo Farm	Peco 001999
<b>D-224</b>	City of Okolona Electric Department Records with Affidavit	Peco 002034-002040

The authenticity and admissibility in evidence of the preceding exhibits are stipulated. If the authenticity or admissibility of any of the preceding exhibits is objected to, the exhibit must be identified below, together with a statement of the specified evidentiary ground(s) for the objection(s):

**Plaintiffs object to admission of the following above-listed documents:**

D-59	FRE 802
D-60	FRE 802
D-61	FRE 802
D-62	FRE 802
D-63	FRE 802
D-64	FRE 802
D-65	FRE 802
D-66	FRE 802
D-67	FRE 802
D-68	FRE 802
D-69	FRE 802
D-70	FRE 802
D-71	FRE 802
D-72	FRE 802
D-73	FRE 802
D-74	FRE 802
D-75	FRE 802
D-76	FRE 402, FRE 403, FRE 802, FRE 901
D-77	FRE 802
D-78	FRE 802
D-79	FRE 802
D-80	FRE 802

D-81	FRE 802
D-82	FRE 802
D-83	FRE 802
D-84	FRE 802
D-85	FRE 802
D-86	FRE 802
D-88	FRE 802 (words on the photograph only)
D-92	FRE 802 (words on the photographs only)
D-93	FRE 802 (words on the photographs only)
D-94	FRE 802 (words on the photographs only)
D-97	FRE 802 (words on the photographs only)
D-98	FRE 802 (words on the photographs only)
D-100	FRE 802 (words on the photograph only)
D-106	FRE 802 (words on the photograph only)
D-144	FRE 402, FRE 403
D-145	FRE 402, FRE 403
D-146	FRE 402, FRE 403
D-147	FRE 402, FRE 403
D-148	FRE 402, FRE 403
D-149	FRE 402, FRE 403
D-150	FRE 402, FRE 403
D-151	FRE 402, FRE 403
D-152	FRE 402, FRE 403
D-153	FRE 402, FRE 403
D-154	FRE 402, FRE 403
D-155	FRE 402, FRE 403
D-156	FRE 402, FRE 403
D-157	FRE 402, FRE 403
D-158	FRE 402, FRE 403
D-159	FRE 402, FRE 403
D-160	FRE 402, FRE 403
D-161	FRE 402, FRE 403
D-162	FRE 402, FRE 403
D-163	FRE 402, FRE 403
D-164	FRE 402, FRE 403
D-165	FRE 402, FRE 403
D-166	FRE 402, FRE 403
D-167	FRE 402, FRE 403
D-168	FRE 402, FRE 403
D-169	FRE 402, FRE 403
D-170	FRE 402, FRE 403
D-171	FRE 402, FRE 403
D-172	FRE 402, FRE 403
D-173	FRE 402, FRE 403
D-174	FRE 402, FRE 403

D-175	FRE 402, FRE 403
D-176	FRE 402, FRE 403
D-177	FRE 402, FRE 403
D-178	FRE 402, FRE 403
D-179	FRE 402, FRE 403
D-180	FRE 402, FRE 403
D-181	FRE 402, FRE 403
D-182	FRE 402, FRE 403
D-183	FRE 402, FRE 403
D-184	FRE 402, FRE 403
D-185	FRE 402, FRE 403
D-186	FRE 402, FRE 403
D-187	FRE 402, FRE 403
D-192	FRE 402
D-193	FRE 402
D-194	FRE 402
D-195	FRE 402
D-199	FRE 802
D-200	FRE 802
D-201	FRE 802
D-204	FRE 802
D-205	FRE 802
D-206	FRE 402, FRE 403
D-208	FRE 402
D-209	FRE 802
D-210	FRE 802
D-211	FRE 802
D-212	FRE 802
D-213	FRE 802
D-214	FRE 802
D-216	FRE 402, FRE 403
D-224	FRE 402, FRE 403, FRE 802

**11. The following is a list and brief description of charts, graphs, models, schematic diagrams, and similar objects which will be used in opening statements or closing arguments, but which will not be offered in evidence:**

**a. To be offered by the Plaintiffs:**

1. Map(s) and/or other diagram(s) depicting the geographic locations of Plaintiffs and Cole's and Skeels chicken houses.

**b. To be offered by the Defendant:**

1. Electronic and/or enlarged versions of exhibits identified in ¶ 10.b.
2. Trial Plaintiff KMZ File
3. Dilution to Threshold Distance (North) mp4 File
4. Dilution to Threshold Distance (South) mp4 File
5. Buffer Zone mp4 file

Objections, if any, to use of the preceding objects are as follows:

If any other objects are to be used by any party, such objects will be submitted to opposing counsel at least three business days before trial. If there is then any objection to use of the objects, the dispute will be submitted to the court at least one business day before trial.

- 12. The following is a list of witnesses Plaintiffs anticipate calling at trial (excluding witnesses to be used solely for rebuttal or impeachment). All listed witnesses must be present to testify when called by a party unless specific arrangements have been made with the trial judge before commencement of trial. The listing of a WILL CALL witness constitutes a professional representation, upon which opposing counsel may rely, that the witness will be present at trial, absent reasonable written notice to counsel to the contrary.**

<b>Name</b>	<b>Will/May Call</b>	<b>[F]act [E]xpert [L]iability [D]amages</b>	<b>Address</b>	<b>Telephone Number</b>
Amanda Boggan	May	F/L/D	20138 White Rock Rd. Aberdeen, MS 39730	662-319-9919
Mandolyn E. Boyd	May	F/L/D	20025 Tumblin Rd. Aberdeen, MS 39730	662-436-3958
Christine DeVauld	May	F/L/D	20010 Tumblin Cir. Aberdeen, MS 39730	662-369-9145
Claude DeVauld	May	F/L/D	20010 Tumblin Cir. Aberdeen, MS 39730	662-369-9145
Stella Dobson	May	F/L/D	20015 Tumblin Cir. Aberdeen, MS 39730	662-369-6520
Caron Ewing	May	F/L/D	20027 Tumblin Cr. Aberdeen, MS 39730	662-369-7619
Ira Fields	May	F/L/D	20069 Tumblin Rd. Aberdeen, MS 39730	662-369-6308
Robbie Fields	May	F/L/D	20069 Tumblin Rd. Aberdeen, MS 39730	662-369-6308

James E. Lenoir	May	F/L/D	20115 Egypt Rd. Aberdeen, MS 39730	662-369-9530
Pamela McAlister	May	F/L/D	20017 Glenn T. Rd. Aberdeen, MS 39730	662-436-5971
Lillie Page	May	F/L/D	20020 Tumblin Cr. Aberdeen, MS 39730	662-369-8183
Larry G. Porter	May	F/L/D	20182 White Rock Rd. Aberdeen, MS 39730	662-297-6660
Charity Scott	May	F/L/D	20038 Gillespie Dr. Aberdeen, MS 39730	662-369-8228
Henry Tumblin	May	F/L/D	20072 Tumblin Rd. Aberdeen, MS 39730	662-436-1624
Myrtice Tumblin	May	F/L/D	20051 Tumblin Rd. Aberdeen, MS 39730	662-369-7048
Chasity Denise Young	May	F/L/D	20268 Tumblin Rd. Aberdeen, MS 39730	662-436-4294
Clarence Chandler	May	F/L/D	20236 White Rock Rd. Aberdeen, MS 39730	
Robert Hall	May	F/E/L/D	730 County Rd, 104 E. Harrisburg, MO 65256	573-882-9500
Kathy Martin	May	F/E/L/D	3122 Tall Oaks Circle Norman, OK 73072	405-819-7626
Martha Cole	May	F/L/D	20113 Tumblin Aberdeen, MS 39730	
Roddy Sanders	May	F/L/D	1020 Lurleen Wallace Tuscaloosa, AL 35401	205-345-4711
Noland Skeels	May	F/L/D	20010 Egypt Rd. Aberdeen, MS 39730	
Leona Bernice Ivy	May	F/L/D	20186 White Rock Rd. Aberdeen, MS 39730	662-369-0082
James Edward King, Sr.	May	F/L/D	20055 Tumblin Rd. Aberdeen, MS 39730	662-369-1338
Glen T. McAlister	May	F/L/D	20019 Glenn T. Rd. Aberdeen, MS 39730	662-369-6874
Miloyd Ware	May	F/L/D	20231 Tumblin Rd. Aberdeen, MS 39730	662-369-4993
Michelle Blanchard	May	F/L/D	20405 White Rock Road Aberdeen, MS 39730	662-369-7576
Ilana Randle	May	F/L/D	20230 Egypt Road Aberdeen, MS 39730	662-436-0511

Linda Barr	May	F/L/D	
Darryl Nicholson	May	F/L/D	Wren, MS 39370

Plaintiffs reserve the right to call any witness not called to testify by Defendant, and any witness identified by Defendant.

Plaintiffs agree for the deposition to be taken of Clarence Chandler and Linda Barr at counsels' availability. Plaintiffs' counsel will make aforementioned witnesses available at an agreeable location 48 hours prior to calling those witnesses to testify at trial.

**Will testify live:**

All witnesses listed above except for Martha Cole.

**Will testify by deposition:**

1. Martha Cole – entire deposition may be used

State whether the entire deposition, or only portions, will be used. Counsel **must** confer, no later than twenty-one days before the commencement of trial, to resolve **all** controversies concerning **all** depositions (electronically recorded or otherwise). All controversies not resolved by the parties **must** be submitted to the trial judge not later than fourteen days before trial. All objections not submitted within that time are waived.

13. **The following is a list of witnesses Defendant anticipates calling at trial (excluding witnesses to be used solely for rebuttal or impeachment). All listed witnesses must be present to testify when called by a party unless specific arrangements have been made with the trial judge before commencement of trial. The listing of a WILL CALL witness constitutes a professional representation, upon which opposing counsel may rely, that the witness will be present at trial, absent reasonable written notice to counsel to the contrary.**

	<u>Name</u>	<u>Will/ May Call</u>	<u>[F]act/ [E]xpert [L]iability/ [D]amages</u>	<u>Business Address &amp; Telephone Number</u>
1.	Roddy Sanders Peco Foods, Inc.	Will	F/L/D	1020 Lurleen Wallace Blvd. Tuscaloosa, AL 35401

				205-345-4711
2.	Mark Hickman Peco Foods, Inc.	May	F/L/D	1020 Lurleen Wallace Blvd. Tuscaloosa, AL 35401 205-345-4711
3.	Denny Hickman Peco Foods, Inc.	May	F/L/D	1020 Lurleen Wallace Blvd. Tuscaloosa, AL 35401 205-345-4711
4.	Ronnie Junkin Peco Foods, Inc.	May	F/L/D	Gordo, AL 35466
5.	Noland Skeels Cole's and Skeels Poultry	Will	F/L/D	20010 Egypt Road Aberdeen, MS 39730
6.	Terri Skeels Cole's and Skeels Poultry	May	F/L/D	20010 Egypt Road Aberdeen, MS 39730
7.	Steve Devauld Cole's and Skeels Poultry	May	F/L/D	Aberdeen, MS 39730
8.	John Kind, Ph.D., CIH	Will	F/E/L/D	5120 Northshore Drive North Little Rock, AR 72118 501-801-8500
9.	Maxcy P. Nolan, III, Ph.D.	Will	F/E/L/D	1020 Industrial Drive Watkinsville, GA 30677 706-769-9824
10.	George Malone	May	F/E/L/D	13713 Allen Road Princess Anne, Maryland 21853
11.	Gary Rikard MDEQ	Will	F/L/D	515 E Amite Street Jackson, MS 39201 601-961-5171
12.	Harry Wilson MDEQ	May	F/L/D	515 E Amite Street Jackson, MS 39201 601-961-5171
13.	Tracy Tomkins MDEQ	May	F/L/D	515 E Amite Street Jackson, MS 39201 601-961-5171

- |     |  |     |       |   |
|-----|--|-----|-------|---|
| 14. | Clift Jeter<br>MDEQ  | May | F/L/D | 515 E Amite Street<br>Jackson, MS 39201<br>601-961-5171 |
| 15. | Randy Byars<br>MDEQ  | May | F/L/D | 515 E Amite Street<br>Jackson, MS 39201<br>601-961-5171 |
| 16. | Darryl Nicholson   | May | F/L/D | Wren, Mississippi 39730                                 |
| 17. | Preston Sullivan   | May | F/L/D | 1601 CR 410<br>Okolona, MS 38860                        |
| 18. | Jason Wells<br>Security Support Services   | May | F/L/D | 6036 Highway 18<br>Jackson, MS 39207<br>601-922-5361    |
| 19. | Peco reserves the right to call any Plaintiff not called to testify by Plaintiffs, and any witness identified by Plaintiffs. |     |       |   |

**Will testify live:**

All witnesses listed above except for Maxcy P. Nolan, III, Ph.D.

**Will testify by deposition:**

1. Maxcy P. Nolan, III, Ph.D. – entire deposition may be used.

State whether the entire deposition, or only portions, will be used. Counsel **must** confer, no later than twenty-one days before the commencement of trial, to resolve **all** controversies concerning **all** depositions (electronically recorded or otherwise). All controversies not resolved by the parties **must** be submitted to the trial judge not later than fourteen days before trial. All objections not submitted within that time are waived.

14. **This is a jury case.**

15. **Counsel suggests the following additional matters to aid in the disposition of this civil action:**

None

16. **Counsel estimates the length of the trial will be 4 weeks.**



17. As stated in paragraph 1, this pretrial order has been formulated (a) at a pretrial conference before a judicial officer, notice of which was duly served on all parties, and at which the parties attended as stated above, or (b) the final pretrial conference having been dispensed with by the judicial officer, as a result of conferences between the parties. Reasonable opportunity has been afforded for corrections or additions prior to signing. This order will control the course of the trial, as provided by Rule 16, Federal Rules of Civil Procedure, and it may not be amended except by consent of the parties and the court, or by order of the court to prevent manifest injustice.

ORDERED, this the 27<sup>th</sup> day of February, 2017.

/s/ MICHAEL P. MILLS  
UNITED STATES DISTRICT JUDGE  
NORTHERN DISTRICT OF MISSISSIPPI

/s/ Charles D. Miller  
Attorney for Plaintiff

/s/ Stephen J. Carmody  
Attorney for Defendant

Entry of the preceding Pretrial Order is recommended by me on this, the 22<sup>nd</sup> day of February, 2017.

/s/ DAVID A SANDERS  
UNITED STATES MAGISTRATE JUDGE