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Small farmers have poor record in antitrust cases

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Colorado cattleman Mike Callicrate and other ranchers won a \$1.2 billion award from an Alabama jury in 2004 in a class-action lawsuit alleging anti-competitive behavior by meat packers.



But the trial judge overturned the award in *Pickett vs. Tyson Fresh Meats*. The ranchers lost their appeal and the Supreme Court denied review.

Callicrate said the packers put him out of business as punishment.

"They just wouldn't buy my cattle, the four big packers," he said. "They just decided they'd had enough. I had to close down my cattle operation. I had 14,000 head of cattle on feed when that happened."

In a case rejected by the Supreme Court this month, *Terry vs. Tyson Farms*, Tyson admitted to using strong-arm tactics against a Tennessee poultry farmer. But the company argued these actions did not harm overall competition. The appellate court agreed. Tennessee poultry farmer Alton Terry lost his farm to foreclosure after Tyson cut him off.

With few antitrust actions in agriculture, and scant enforcement of the 1921 Packers and Stockyards Act that bans packers from engaging in "any unfair, unjustly discriminatory or deceptive practice," farmers again and again have turned to the courts and lost.

A string of appellate decisions have said the law requires farmers to show that tactics used against them as individuals have damaged competition generally.

Several administrations have said that interpretation conflicts with the plain language of the act. The [Obama](#) administration has proposed a new rule, now under review, that it says returns the 90-year-old statute to its proper interpretation.

Mark Dopp of the American Meat Institute, which speaks for the packers, said the jury award in *Pickett* shows that the new rule would expose packers trying to contract with ranchers to produce branded beef to legal assault. Those who support the rule note that it explicitly allows brands.

Callicrate has since started his own meat company, Ranch Foods Direct, that markets directly to consumers. He contends the packers co-opt niche brands developed by entrepreneurial ranchers.

Niman Ranch, founded by Bolinas cattleman Bill Niman, revolutionized the beef industry by marketing grass-fed meats raised by small ranchers. Niman is no longer associated with the company, now owned by Chicago investors and headquartered in Alameda.

John Tarpoff, Niman's vice president for beef, said the administration's proposed rule would "hammer" the Niman brand and the small ranchers who grow it.

"We have 600 family farms we deal with," Tarpoff said. "If the rule eliminates businesses like ours, then the people who are producing for us, in a lot of cases it eliminates them too."

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